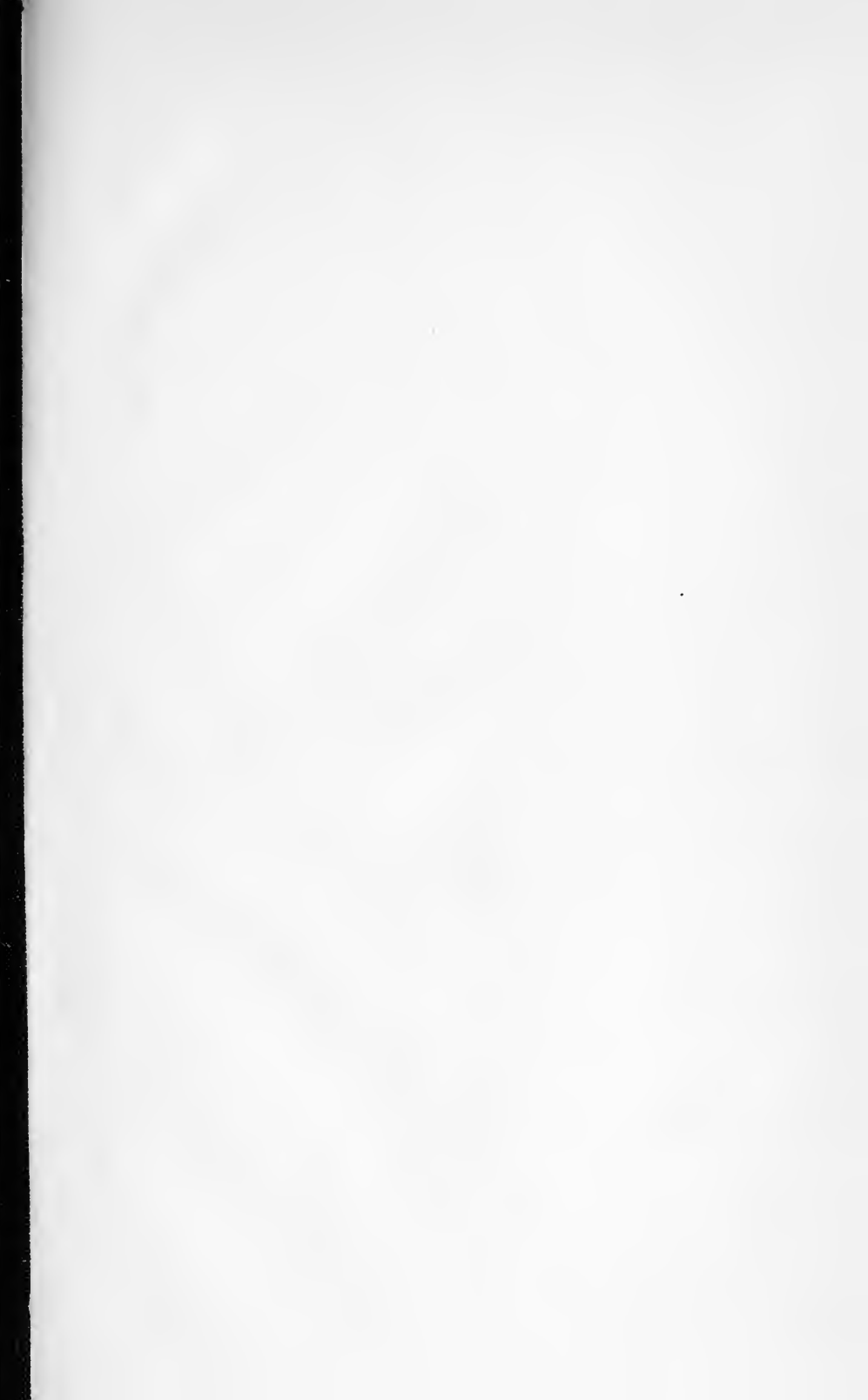




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# THE JEWISH QUARTERLY REVIEW

NEW SERIES

EDITED BY  
CYRUS ADLER

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AN UNKNOWN GRAMMATICAL WORK BY  
ABUL-FARAJ HARUN

BY HARTWIG HIRSCHFELD, Jews' College, London

WHEN examining a number of Genizah fragments belonging to the British Museum I came across two paper leaves, 18 cm.×14.5 cm. with 21 lines to the page. They are written in Arabic and in Hebrew square characters. The first page bears nothing but the title כְּתָאב אֶלְעָקוֹד פִּי הַצַּאֲרִיף אֶלְלָנָה "Pearl-Strings on the grammatical inflections of the Hebrew language—may God make it useful." No work of this title has been known before, and as the name of the author is absent it must be left to conjecture.

In his opening remarks the author refers to another grammatical work of his to which he gave the title אֶלְכָּאֵפִי פִּי אֶלְלָנָה "The Adequate [book] on the [Hebrew] language." A copy of a treatise so named exists in Petrograd,<sup>1</sup> but no details of this work are at hand, and at present not easily to be obtained. The author of the last-named work is Abul-Faraj Harun, a prominent Karaite grammarian who lived in Jerusalem in the earlier part of the eleventh century. We possess a large work of his both grammatical and lexicographical under the title אֶלְכְּתָאב אֶלְמִשְׁתַּחֲמֵל עָלֵי אֶלְאַצּוֹל "The Comprehensive work on the roots and sections of the Hebrew language." Considerable portions of this work have been reproduced in the Arabic original as well as in French translation by the late Prof.

<sup>1</sup> See Steinschneider, *Die Arabische Literatur der Juden*, p. 88.

Bacher.<sup>2</sup> The author states in the beginning of our fragment that he produced a compendium to the "Adequate" work above mentioned under the title **אלמכתצר** the "Abridged" [work], and he also says that he wrote yet another and still more condensed compendium of which our fragment is a part. If we compare all these statements with that on the *Kafi*, which, he says, comprehends nearly all the sections of the *Mushtamil*, we come to the conclusion that these two works are identical, as both titles approximately express the same idea. Further support for the identity of the author of the fragment with that of the *Mushtamil* may be gained from the use of two grammatical terms common to both, viz. **אחזן** (Bacher, p. 236, rem. 2) and **מורר**. The author states that he produced the last abstract at the request of a pupil who wished to possess a *vade mecum* in which the bare grammatical facts were strung together. Hence the title Strings of Pearls which describes the character of the work very neatly. Our fragment gives the first leaf and one of the later ones. This, however, creates a problem of some obscurity. The last few lines of the Arabic text which in the appended reproduction closely follow the original are in a very unsatisfactory condition. The third line from the end is disfigured by a hole in the paper with two half obliterated letters on either side of it. The missing word was possibly **הרה**, but this is not certain. The last line only shows the word **ידכלהא** the subject of which is missing. Finally there is the word **קובלה** written at the bottom of the page which apparently forms no part of the treatise, but states that this had been "collated" with the author's original or some authenticated copy. This is made probable by the various corrections in the MS. Diacritical points are missing, and Hebrew words

<sup>2</sup> *REJ.*, vol. XXX, p. 234 *seq.*



are vocalized according to the Palestinian system. The spelling of the Arabic text shows the same looseness which is common to Jewish-Arabic writings.

Quite in keeping with Abul-Faraj Harun's Karaite denomination is the religious coloring of this dry grammatical treatise. This is another point in support of the assumption that Karaites were amongst the very earliest promoters of grammatical studies among Jews, since all their religious needs depended upon the correct interpretation of Holy Writ. The writer, therefore, holds that to make oneself acquainted with the rules of the language is a religious duty. We should bear in mind that the author was a contemporary of Judah Hayyuj in Cordoba, and it is truly interesting to observe that the first steps in the really scientific recognition of the phenomena of the Hebrew language approximately synchronize in the East as well in the West. "The need," he says, "to gain an acquaintance with the Hebrew language brings with it the obligation of knowing the words of the Lawgiver in their true interpretation. No one can arrive at this whilst being ignorant of the language because he is liable to err and interpret falsely." This the author demonstrates by several examples. First, **אבל מצרים** (Gen. 50. 11) is not the "mourning of Egypt," for if this were so the word should be **אבל** as in the preceding passage, and the meaning would be the "mourner of Egypt," being a form like **אֶהָב, הָעֵבֶר**, etc. Second, **ושמלה כמוללה בדמים** (Isaiah 9.4) is wrongly translated "a garment bespattered with blood." If this were so we should expect **מנואלה**, like **לחם מנואל** (Mal. 1. 7), whilst the correct translation is "rolled", as **וגלל אבן** (Prov. 26. 27); third, **בלו דבר** (2 Sam. 3. 4) does not mean "without anything," because—but here the first leaf ends.

The second leaf deals with the classification of words

which appear either as prepositions or nouns, as על (Levit. 1. 11; Hos. 11. 7), ער (Levit. 23. 16; Gen. 49. 27). ישחק is a proper noun in Amos 7. 16, but an imperfect in Ps. 2.4. שם is past tense in Ps. 78, 431, but a participle in Zech. 12. 2. The test of these instances is that the addition of the termination ים makes them nouns in plural, whilst a prefixed ו yields a verbal form.

The last page contains the beginning of a chapter on the rules of various verbal and nominal formations. Unfortunately the opening word or words are missing, and it is therefore impossible to reproduce the author's words without guessing. He apparently speaks about the formation of a word on the model of another of similar vocalization but different etymology. In some groups the first radicals belong to different classes, in others only the second radicals differ, whilst the first ones are identical. If all three radicals in two roots are identical they are congruent. Four points demand special attention: *first*—the number of identical radicals as in חרון and חוון; *second*—the order of the radicals in nouns with prefixed מ as in מלון and מנוס, which are not formed like רצון; *third*—the number of strong consonants which must not differ in two verbal roots. This yields regular forms and individually bear upon the sense of hearing as זכור and שמור; *fourth*—there should not be a guttural letter in either word, because...the letters...do not enter in it.

Brit. Mus. Or. 5565 E

fol. 13 ro

כתאב אלעקור פי תצאריף  
אללנה אלעבראניה נפע אללה בה

fol. 13 vo

בשם יי נעשה ונצליח  
קר כנת אכתצרת אלכאפי פי אללנה אכתצארא ישמל  
אבואבה אלא אלשאד מנה סוא מא חצל פיה מן אלזיאראת  
מא לס יתצמנה אלכאפי וסאל סאיל אן אכתצר  
מכתצר אכר אונן מן אלמכתצר אלמזכור יעקד פיה  
עקור פי אלתצאריף ויגמל פיה לְמֵלֵא מנהא חכון אצולא  
יִרְנֶע אליהא תסתועב פי אליסיר מן אלזמאן והא אנא עאזם  
עלי אלאכתצאר ממא לו חדפתה לס יכל בכ חדפה  
כתירא ואחסע פימא לזם מנה בדא סאילא ללה תעאלי  
אלעצמה מן אלזלל ואלכטא והו פאעל דלך במנה ולטפה  
אן שא אללה אלחאנה אלי עלם אללנה דאעיה  
לזיוב עלם חקאיק עבאראת אלמשרע תעלי ולא וצול  
אלי עלם דלך ואלמכלף נאהל באללנה לאן אלנאהל בהא  
יול ויגלט כמן זל וגלט פי תפסיר אָבֵל מצרים חזן מצר  
ולו כאן כדלך לכאן אָבֵל כָּךְ אָבֵל כָּבֵד זה וחפסירה  
חזין מצר מֵתֵל חֶצֶב אָהֵב ואמחאל דלך וכדלך מן  
זל וגלט פי תפסיר ושמלה מנוללה בדמים ובזה מלותה  
בדמא ולו כאן דלך כדלך לכאנת מנואלה מֵתֵל לַחֵם  
מנואל ותפסירה מדחרגא<sup>3</sup> בדמא מן וגולל אבן  
יכדלך מן גלט ופטר בית מכיר בן עמיאל בְּלוּ דָבָר  
בזיר שי יקוחה ולו כאן כדלך לכאן קר ...

fol. 14 ro

ואמחאל דלך ואלתלאת לא יצלח אן יכון אלא  
כאדם כָּךְ כִּי רָק אֶךְ ואמחאל דלך ואלראבע  
יצלח אן יִכּוֹן אִסֵּם וכאדם כָּךְ על ירך המזבח כאדם  
יתקול ואל על יקראהו אסם וכדלך עד ממחרת

<sup>3</sup> On margin.

השבת כֹּאדָם בְּבֶקֶר יֹאכֵל עַד אֶסֶם  
 וְאַלְכֹאֶמֶס יִכּוֹן אֶסֶם וּפְעַל מִסְתַּקְבֵּל כֵּךְ וְלֹא חֲטִיף  
 עַל בֵּית יִשְׁחָק אֶסֶם יוֹשֵׁב בְּשִׁמִּים יִשְׁחָק פֻּעַל  
 מִסְתַּקְבֵּל וְאַלְכֹאֶדָס יִכּוֹן אֶסֶם וּפְעַל מֵאֲצִי לִנְךָ  
 אֲשֶׁר שָׁב אֶל יִי פֻעַל מֵאֲצִי הִנֵּי שָׁב שְׁבוֹת  
 אֶהְיִי יַעֲקֹב אֶסֶם אֲשֶׁר שָׁם בְּמִצְרַיִם אוֹתוֹתָיו פֻּעַל  
 הִנֵּה אֲנִי שָׁם אֶת יְרוּשָׁלַיִם סָף רַעַל אֶסֶם וְתַעֲתֵבֶר  
 הָדָא אֶלְכֶסֶם בִּיּוֹד וּמֵאֶם אֶלְדִּי לִלְנֻמֶּע וּוְאוֹ אֶלְצִמִּיר אֶלְדִּי  
 לִלְרַבִּים פֹּאִי לִפְטָה חֶסֶן פִּיהָ יוֹד וּמֵאֶם אֶלְנֻמֶּע פֻּקֵּט  
 צִלְחַת לִלְאֶסֶם לֹא לִלְפַעַל וְאֵדָא חֶסֶן פִּיהָ וְאוֹ אֶל  
 צִמִּיר פֻּקֵּט צִלְחַת אֵן תְּכוּן פֻּעַל לֹא אֶסֶם וְאוֹ לִפְטָה  
 חֶסֶן פִּיהָ יוֹד וּמֵאֶם אֶלְנֻמֶּע וּוְאוֹ אֶלְצִמִּיר עָלִי כִּבִּיל  
 אֶלְבֶּרֶל צִלְחַת אֵן תְּכוּן אֶסְמָא וּפְעַל תְּקוּל מִן דְּלֵךְ  
 שָׁם שְׁמִים שָׁב שְׁבִים שָׁם שְׁמוֹ שָׁב שְׁבוֹ

fol. 14 vo

בֹּאֵב פִּי שְׁרוּט אֶלְאוּמָאן  
 וְאַמָּא וּזֶן לִפְטָה בִּלְפְטָה נִירְהָא פִּינְבִּי אֵן תְּכוּן  
 אֶלְלִפְטָתִין מִתְסַאוּתִין פִּי סֵאִיר וְנוֹהֶמְמָא אֵלָא פִּי אֶלְחֶרֶף  
 אֶלְאַצְלִיָּה פֹאֵן יִנְבֵּ אֵן תְּכוּן אֶלְחֶרֶף אֶלְאַצְלִי פִּי הָדָה  
 מִנִּיר מִן הָדָה פֻּקֵּד יִנּוּ אֵן תְּתַנִּיר כֹּל אֶלְחֶרֶף אֶלְאַצְלִיָּה  
 כֵּךְ כְּנָה עֲשֶׂה וְיִנּוּ יִתְנִיר בַּעֲצָהא כֵּךְ עֲלָה עֲנָה  
 וְלֹא יִנּוּ אֵן תְּכוּן אֶלְחֶרֶף אֶלְאַצְלִיָּה כֹּלְהָא נִיר מִתְנַאִירָה  
 לֹאֵן אֵדָא כֹּאֵן דְּלֵךְ כְּדִלֵךְ פִּמָּא הִי נִיר לֵהָא בֵּל הִי הִי  
 וְאַמָּא יִנְבֵּ מִטְּאִלְתָּהָא לֵהָא פִּי סֵאִיר אֶלְוִנָה סוּא  
 מֵא דְכֵר לִתְכוּן מִתֵּל לֵהָא לֹאֵן אֵן כֹּלְפַת הָדָה אֶלְלִפְטָה  
 לִלְפְטָה אֶלְמוֹנוֹהָ בֵּהָא פִּי וְנָה וְאַחֵד לֶם תְּכוּן מִתֵּלָא  
 לֵהָא וְקֵד קִיל אֵן אֶלְדִּי יִרְאֵעָא פִּי אֶלְאוּמָאן שְׁרוּט  
 מִנְהָא עֵדֶר אֶלְחֶרֶף אֶלְאַצְלִיָּה מִתֵּל חֲזוֹן קֶרֶן אֵד  
 אֶלְחִית וְאַלְזִיָּי פִּי חֲזוֹן אֶצְלִיָּן וְאַלְחִית וְאַלְרִישֵׁי פִּי חֲרוֹן  
 אֶצְלִיָּן וְאַמְהָל דְּלֵךְ וִירְאֵעָא תִּרְתִּיב

אלהרוף אלאצלייה פי אללפטטין תרתיבא ואחדא מחל  
 קנוס קלון אלדי אלמאמין פי רוסהמא ליסא אצליין  
 פלא אוזנא בקצון אד אלריש פי ראס אללפטטה אצלי  
 ואמתאל דלך ויראעא עדר אלמלוך ואן לא  
 תכתלף אלמלוך פי אללפטטין והדא הו אחכאם אלציגה  
 והו אן יכון מורדהמא עלי חאסה אלסמע מורדא ונאחדוא<sup>2</sup>  
 כק זכור שמור ואמתאל דלך ויראעא  
 אן לא תזון חרוף אהחע בנירהא לאן.....<sup>4</sup>אלחרוף לא  
 ידכלהא  
 קובלח

<sup>4</sup> Hole in MS.



## DESCRIPTIVE CATALOGUE OF GENIZAH FRAGMENTS IN PHILADELPHIA

By B. HALPER, Dropsie College.

### II

#### TALMUD, MIDRASH, AND HALAKAH (TEXTS, TRANSLATIONS, COMMENTARIES, AND DICTIONARIES).

##### 75

Part of a codex of the Mishnah. Bikkurim 3.2-4.2.

Recto column 1 begins with וילמשכ]ים היה (3.2), and ends with וניכנס ער (3.4); recto column 2 continues column 1, and ends with נימנעו מלהביא (3.7); verso column 1 continues recto column 2, and ends with חייב בדמיי (3.10); verso column 2 continues column 1, and ends with כיצר שזה לאנשים (4.2).

The Mishnah paragraphs are numbered by the letters of the alphabet. But the division of the paragraphs does not always agree with that of the printed texts. Thus while in the printed texts chapter 3 of this tractate has 12 paragraphs, our fragment counts them as 11, the two paragraphs from הנחלות till והשתחוו ויצא being regarded as one.

There are only slight variants, such as השור הולך עיניהם instead of לפניהם (3.3) and באתם בשלום instead of לשלום (*ibid.*). The orthography practically agrees with that of the printed texts, except for the frequency of ' to indicate a short *i*.

One parchment leaf measuring  $6\frac{7}{8} \times 7\frac{1}{2}$  ins. (=  $17.4 \times 19$  cm.). Each page has two columns, and the number of lines on each column is twenty-four. Square character. The edges are burned. [Friedenwald.]

##### 76

Part of a codex of the Mishnah. Nedarim 11.10-Nazir 3.2.

Recto begins with נערה שלא בנרה (Nedarim 11.10), and ends with כת (Nazir 1.7). The first legible word on verso is ש]מי (*ibid.*, 2.1); it

ends with [י]הראשונה (*ibid.* 3.2). At the end of Nedarim there is הנא פרקא י"א הלכתא י"ב, while the printed editions divide this chapter into twelve paragraphs. Nazir is headed פרקא קדמאה. At the end of the second chapter of Nazir there is 'הנא פרקא ב' הלכתא י'. This fragment contains a number of variants: עדין = עדאן (Nedarim 11.10); שני = שאני (*ibid.* 11.11); omits אלא before האומרת (*ibid.* 11.12); מחיר and אסור are reversed (*ibid.* 2.4); הרני for הרני (*Nazir* 1.1,2); הוונים for הונין (*ibid.* 1.2); לכשיהיה for כשיהיה (*ibid.* 2.7); omits כשיהיה after כשאראה (*ibid.*).

One parchment leaf, badly damaged and obliterated, measuring  $10\frac{1}{2} \times 5\frac{3}{4}$  ins. (=  $26.6 \times 14.6$  cm.). Twenty-eight fragmentary lines have been preserved to a page. Square character with superlineary vocalization. About one line is torn off at the top. [Sulzberger.]

## 77

Part of Pirke Abot. 1.6-2.3.

Recto begins with בן פרחיה (1.6), and ends with חלף (1.13); verso continues recto, and ends with הוה זורין ברשות (2.3).

At the end of the chapter there is סליק פירק'.

Variants: י"לף (1.13); איוה היא (2.1); כמצוה חמורה (*ibid.*); ועונשה (*ibid.*); של עבירה.

A piece of parchment, one side torn off, measuring, where not torn,  $8\frac{1}{2} \times 7\frac{1}{2}$  ins. (=  $20.6 \times 18.1$  cm.). Recto has nineteen lines which fill the page, with uniform spaces between the lines; verso has eighteen lines which cover three-fourths of page. Square character. [U. P.]

## 78

Part of a codex of the Mishnah. Zebahim 5.1-5.5.

Recto begins with איהו הוא ממונ (5.1), and ends with כהנה (5.5); verso continues recto, and ends with the last word of 5.4. In this fragment 5.4 and 5.5 have changed places. There are some variants as well as scribal errors. איהו for איהו הוא (5.1); הויה for הויה (*ibid.*); כבש for לכבש (5.3); דרומית (*ibid.*) is repeated twice through dittography; לפני מן for לפני מן (5.5).

A narrow paper leaf, measuring  $9\frac{7}{8} \times 3\frac{5}{8}$  ins. (=  $25.1 \times 9.2$  cm.). Recto has thirty-one lines, while verso has only six, the rest of the page being blank. Square character with a tendency to cursiveness. [Sulzberger.]



## 79

The first part of Mishnah Middot. 1.1–3.

It is headed **מסכת מרות**, and the last words are **בניסה ויצאה**. The orthography is inaccurate, and the vocalization faulty. Thus **ׁ** is sometimes used for **ׂ**. The word **ניכר** (1.2) is erroneously vocalized **נִיכֶר**. There seem to be traces of the use of distinctive accents, like **ׁ** and **ׂ**.

A piece of parchment, badly mutilated, measuring  $5\frac{1}{4} \times 6\frac{1}{4}$  ins. (=  $13 \times 15.9$  cm.). There are seventeen lines on recto, while verso is blank. Square character, with vowel-points. [Amram.]

## 80

Part of Mekilta Beshallah.

The first legible words of recto are **עשתם כן** (Mekilta, ed. Weiss, p. 17, l. 7); this page ends with the words **להם כן אמ' הערבים**. (*ibid.*, p. 59, l. 4). The first legible words of verso are **השעה שהיו אומ'** (*ibid.*, l. 5). The fragment ends with the words **שמה תאמרו** (*ibid.*, l. 22).

Our manuscript offers some variants. In most cases it agrees with Mekilta de-Rabbi Yishma'el; but in many paragraphs it follows Mekilta de-Rabbi Shim'on b. Yoḥai. It thus forms a combination of the two famous recensions of the Mekilta. The paragraph on **וחם השמש** is practically the same as in Mekilta de-Rabbi Shim'on b. Yoḥai (ed. Hoffmann, p. 78, l. 11 *seq.*).

The orthography is as a rule that of our printed texts; but there is a number of scribal errors. Thus we have **בן** instead of **בין** (recto last line) and **מוציאין** instead of **מוציאין** (Weiss, p. 59, l. 6). **אחם** is sometimes spelled **אתן**. The name of **ר' זריקה** (Weiss, p. 59, l. 2) is corrupted to **ר' הנתקה**.

The paragraphs are marked by the letters of the alphabet. But the divisions do not agree with those of Mekilta de-Rabbi Shim'on b. Yoḥai. Our fragment begins with the end of paragraph **ד'**, **הם השמש** being marked **ה'**. The passage **אל משה עד אנה מאנתם** is superscribed: **פרשת ו הלכתי כן**.

One parchment leaf, measuring  $8\frac{3}{8} \times 6\frac{1}{16}$  ins. (=  $21.2 \times 17$  cm.). The top lines are burned, hence it cannot be ascertained how many lines there were originally on a page. Recto has now thirty-two, and

verso thirty lines. One of the lower corners is trimmed, but as no words are missing, it is obvious that it was in that shape when the scribe wrote on it. Square character. [Friedenwald.]

## 81

Part of the Sifra.

Fol. 1a begins with *הרי זה בלא ירצה* (Sifra *Zaw*, section 8.1), and ends with *יכול אין לי מחשבה פוסלת אל'* (chapter 13.1); fol. 1b. continues 1a, and ends with *הנפש ולא הציבור האוכלת* (13.9). Some leaves are missing between fol. 1b and 2a. The latter begins with *ופסוקת הנרגרת* (*Shemini*, chapter 3.6), and ends with *את הנמל כי מעלה* (*ibid.*, chapter 4.5); fol. 2b continues 2a, and ends with *חתמי בעל עצמות ופרה ורבה* (*ibid.*, section 3.4).

There is a number of orthographic and lexical variants, as well as differences in the arrangement of chapters and paragraphs. Thus what is chapter 4 in the printed edition is headed *פרק נ'*.

Two parchment leaves, forming the outer sheet of a fascicle, slightly damaged. Size  $11\frac{1}{4} \times 9$  ins. (=  $28.6 \times 22.8$  cm.). There are thirty-one lines to a page. Bold square character. [Amram.]

## 82

Part of Yerushalmi Dammai.

Recto begins with *ר' מנא הרה את'* (2.1, p. 22d, l. 15), and the last legible words are *היה מקומי* (*ibid.*, l. 30); verso begins with *עם הארץ ולא* (*ibid.*, l. 64), and last legible words are *סלק נבי אילין* (23a, l. 4).

As may be seen from the omission, the greater part of the leaf is torn off, and the number of lines may have originally been about thirty.

There seem to be some variants.

A piece of parchment, faded and torn on all sides, measuring  $5 \times 5\frac{1}{2}$  ins. (=  $12.7 \times 14$  cm.). Twelve lines have been preserved on each page. Square character. [Amram.]

## 83

Part of the *בריתא דמלאכת המשכן*, 6-10.

Fol. 1a begins with *מן הצד שני לקוח את ספר התורה ונו' ועליו מפורש* (6), and 1b ends with *בקבלה אפריון עשה המלך שלמה ונו', ר' יודנה בן לקיש אומ'*

with [אלו המשה דברים] בתורה אין להם הכרע. איסי בן יהודה אומר 'with [ארכו עשרה ורחבו] (8); fol. 2a continues 1b, and 2b ends with 'אלו המשה דברים] בתורה אין להם הכרע. איסי בן יהודה אומר

There are such radical and important variants as to lead us to the conclusion that this is an entirely different version from the one printed by M. Friedmann (Vienna, 1908). The above quotations indicate some of the variants, and mention may also be made here that from רבי אלעזר אומר לבבלי ירר (Friedmann's edition, p. 49) is omitted in this parchment.

At the end of every chapter there is כליק פרקא, usually in a larger hand.

Two paper leaves, forming the inner sheet of a fascicle, badly damaged. Size  $11 \times 7\frac{1}{2}$  ins. ( $= 27.9 \times 19$  cm.). There are twenty-seven lines to a page. Square character with a tendency to cursive-ness. [Sulzberger.]

## 84

Part of Midrash Rabbah. Wayyikra 25.1-26.3.

Fol. 1a begins with אצל בני תורה בן עדן (25.1), and 1b ends with נדרשות לפנייהם כי תבאו אל הארץ ונטעתם (25.8). A few lines are torn off at the top of fol. 2a, where the first legible words are שפחות החרב בעולם (ibid.); fol. 2b ends with ואבי ראה נס ראה א"ל (26.3).

Some important variants.

Two parchment leaves, badly damaged and faded, forming the inner sheet of a fascicle. Size  $11 \times 7\frac{13}{16}$  ins. ( $= 27.9 \times 20.1$  cm.). There were thirty-one lines to a page. Square character. [Amram.]

## 85

Fragment of a compendium of the Palestinian Talmud. It practically covers the whole of tractate Rosh ha-Shanah and the greater bulk of tractate Ta'anit.

The excerpts are very short and far bewteen. There is hardly any system, and there seems to be no guiding principle as to what to include and what to exclude. In this respect it is inferior to *Al-Fasi* and *'En Ya'aqob*. Nevertheless this fragment is important for the text of the Yerushalmi, as it offers a considerable number of variants.

A full table of contents may not be out of place.

Fol. 1a begins with שמי' בר רבי יצחק חש על גרמיה... ורמך (Yerushalmi Rosh ha-Shanah 1.4). ה' ב' האחד הכל מכירין כתב ידו... הכימא

ראש ב' ד' או' (ibid. 2.2). מהו עצי שמן... דאזיל ואתי (ibid. 2.1). היא מלחא לעבור השנה... אלו א' (ibid., 2.6). מקודש' נ' תני ר' שמע' בן יחי... מקוים בעבורה (ibid.).

Fol. 1b continues this paragraph which ends ריקקה כהדין סימוקן (ibid.). Then follows the story about the conception and birth of the Amora Samuel, and the reason why he became a great man. It begins as follows ואיתיה בשמואל רבה וחמן תשכחי אמאי זכא שמואל בר אבא למהוי טע' אחרינא חכימא כולי האי. ובשאלות נאונים אשכחית כמורות אין חוששין לה לכשרות ולא נחוש למעשה דאבא אבוי דשמו'. דאבא אבוי דשמו' סלק לארע' ד'ישר' למילף. The rest of the story is practically the same as *Halakot Gedolot*, *Giffin* (ed. Hildesheimer, p. 337, bottom); but our fragment has a few more details. At the end of this story our fragment remarks הכדין אשכחית ודוכתה לא ידענא. *Tosafot* Kiddushin 73a under the heading כא' gives this story in short. In brackets the origin of this narrative is given as Yerushalmi, but a marginal note refers it to *Halakot Gedolot*.

Fol. 2a has part of this narrative. Then the words ריקקה כהדין are repeated, and that passage of Yerushalmi is continued till הא נבי (ibid. 2.6).

Fol. 26 continues this paragraph till תלחיהון נבי (ibid.). Then come: מנין שמעברין... לנהר (ibid. 2.9); כת' אלופינו... הנדולים אין פרץ שלוח עבדים (ibid.); רב הונה הוא ידע... ב"ד חורן (ibid. 3.1); ר' יהוש' בן לוי א' עמלק... נתן קולו (ibid. 3.5); תלוי... במקום אחר (ibid. 3.8); the last line of this page is ר' מאיר דורש שמות וכו'. ר' לוי בש' ר' (3.9).

Fol. 3a continues this paragraph till מחלחל והביט (ibid.). Then come: ר' יעקב... מימיכם (Gemara 4.8); ר' זעורא (Mishnah 4.9); העובר... ההלל (ibid. 4.9).

Fol. 36 continues this paragraph which ends with ליה ריש (ibid.). Then comes ר' חונא רבא דצפורין (ibid.) till the end of Rosh ha-Shanah. This is followed by tractate Ta'anit. The copyist here begins on another line, and heads it by מתעניות (extracts from Ta'anit). The first paragraph is א"ר מנא שכל היום (Ta'anit 1.1). This page ends with ר' סמון בש' ר' יהוש' בן לוי כשם ששלח צבור חייב כך כל יחיד וחיד חייב (ibid.; but the first part is missing in the printed texts).

Fol. 4a continues this paragraph which ends with ויתן לך האלהים (ibid.). Then comes: מתוך ה' דבר' ננאלו... וכן הוא אימר (ibid.).



דבית ר' נאי... ודר' חייא (*ibid.*); ר' מפקד... (second) קאים (*ibid.*); נענה (*ibid.*). בר בא (*ibid.*).

Fol. 10b: 'סדר הסב... קבורין' (*ibid.* 4.2); רבי הוה ממני... ובטלו הא' (*ibid.*). This page which is the last of the fragment ends with תני אנשי משמר היו מתעניין בכל יום וכו'.

There are a few marginal notes which relate to the text.

The orthography is practically the same as that of the printed edition. Some words are punctuated. This is usually the case when a new reading is suggested for haggadic purposes, as מְסֻבִּלִים instead of מְסַבִּלִים (Rosh ha-Shanah 2.9).

Ten paper leaves, measuring  $6\frac{1}{2} \times 4\frac{1}{2}$  ins. (=15.5×11.4 cm.). Number of lines on each page ranges from nineteen to twenty-two. Rabbinical cursive character.

These ten leaves form one fascicle. The string which holds them together is decayed. [Adler.]

## 86

Part of tractate Berakot. 7a-7b.

Recto begins with... וכמה זעמו רנע א[חד] מחמשת רבוא (*ibid.* 1. 19), and ends with [כשאין אחוין] מעשה [אבותיהם בדיהם] (*ibid.* 1. 42); verso continues recto, and ends with [ואלו נ]בי תרבות רעה (which would have been 7b, l. 28, if we had the same reading). Recto has a note which begins on top and continues on left-side margin, while verso has a note on right-side margin.

Our fragment offers numerous variants, a few of which may be mentioned here:

Fragment	Printed Text
וכמה זעמו רנע אחרון מחמשת רבוא.	וכמה זעמו רנע וכמה רנע אחר מחמשת רבוא.
ההוא מינא דהוה בשבבותיה דר' מאיר והוה קא מצעיר ליה בקראי נקיט תרנגולתא ואסר כרעיה לאפורייה וכו'.	ההוא צדוקי דהוה בשבבותיה דר' יהושע בן לוי הוה קא מצער ליה טובא בקראי יומא חד שקל תרנגולא ואוקמיה בין כרעי' דערסא וכו'.
קשה תרבות רעה בתוך וביתו של אדם מלחמות נוג ומנוג דאילו נובי מלחמות נוג ומנוג כת' למה ורנשו נויס וג' יתיצבו מלכי ארץ וג' ואילו נובי תרבות רעה	קשה תרבות רעה בתוך ביתו של אדם יותר מלחמות נוג ומנוג שנאמר מומור לדוד בברחו מפני אבשלום בנו וכתוב בתריה ה' מה רבו צרי רבים קמים עלי ואלו נבי מלחמת נוג ומנוג כתוב למה רנשו נויס ולאומים יהנו ריק ואילו מה רבו צרי לא כתוב:

One parchment leaf, measuring  $8\frac{1}{2} \times 7\frac{1}{8}$  ins. (=21.6×18.1 cm.). Number of lines on each page is thirty-three. The leaf is damaged, especially in the corners. Square character. [Friedenwald.]

## 87

Part of tractate Shabbat. 74b-75a.

Recto begins with עושה ארעיתא (74b), and verso ends with העליונים (75a).

The variants are significant. Some paragraphs are arranged differently from what they are in the printed editions. The names of the authorities are usually omitted, the only exception in this fragment being אמ' מד זטרא בר טוביא אמ' רב (75a).

One parchment leaf, badly damaged, measuring  $7\frac{5}{8} \times 5\frac{5}{8}$  ins. (=19.3×14.3 cm.). Recto has twenty-nine lines, while verso has only twenty-eight. Square character with a tendency to cursiveness. [Amram.]

## 88

Part of a talmudic codex. Yebamot 22b-24b.

Recto begins with יהודה האי ערות בת אשת אביך מאי קא עביר ליה (22b, towards the end), and ends with הו קידושין, which is evidently some addition, as it is not found in the printed editions. Some lines are torn off. Verso begins with לנכרי ראי לאו מידה שיה הוה אמינא (24a), and ends with אלא לאו דליכא עדים (24b). There are many variants, some of which are important. In last line of 23a this fragment adds שמעון בן יוחאי after שמועון. Only the words מי שקידש אחת of the Mishnah (23b) are quoted, and the discussion of the Gemara follows immediately. This proves that in this codex the entire Mishnah of a chapter was put at the beginning, as is the case in the Yerushalmi. The Mishnah (לשפחה) הנטען על השפחה (fragment) is not marked as such (24b), while the Baraita (לאשת) הנטען על אשת איש (fragment) is headed כתני' (*ibid.*).

A wide piece of parchment, damaged, measuring  $8\frac{1}{2} \times 12$  ins. (=21.6×30.5 cm.). There are twenty-three lines to a page, besides marginal notes. The text is in a square hand, while the notes are in small Oriental cursive character. The heading כתני' is in large character. [Sulzberger.]

## 89

Part of a talmudic codex. Tractate Sotah 2a-4a.

Fol. 1a begins with וקא תאני שוטה (2a, l. 18), and 1b ends with ואי אפילו חד לזכא (2b, l. 8). Some leaves are missing between 1b and 2a.

The latter begins with אין מתקיימת בפחות משנים (3b, l. 39), and 2b ends with כדרי שחשוט ידה לתוך פיה (4a, l. 9).

There are some insignificant variants, as לכי דר' for כדר' (2a, l. 19); הוה is omitted before פתח (*ibid.*, l. 20). The spelling שוטה, which is in accordance with the Bible, may also be mentioned.

Two paper leaves, slightly damaged, forming the outer sheet of a fascicle. Size  $8 \times 5\frac{3}{4}$  ins. ( $= 20.3 \times 14.6$  cm.). Number of lines ranges from fifteen to seventeen to a page. Square character with a strong tendency to cursiveness. [Amram.]

## 90

Part of tractate Baba Mesi'a 86a (?).

Recto begins with קודשא בריך הוא היה אוצר טהור (86, l. 29), and verso ends with שמע מניה התם היא הלכו (*ibid.*, l. 38).

Some of the Aramaic phrases have been translated into Hebrew, as, for instance, שיתר טוב שימות אותו האיש for תינה נפשיה דההוא נברא for יתור טוב שימות אותו האיש. But in most cases the talmudic phraseology has been retained. The narrative is rather shortened.

Is it part of a book containing talmudic narratives?

A piece of paper, badly damaged, measuring  $6\frac{5}{16} \times 4\frac{5}{16}$  ins. ( $= 16 \times 10.9$  cm.). There are thirteen lines to a page. Square character with a distinct tendency to cursiveness. [Amram.]

## 91

Part of tractate Menahot. 12b-13b.

Recto begins with מהשבין כאכילת ארס (12b), and ends with אין לאכל (13a). Verso begins with יוסי דלבונה (13b), and ends with ליקוט לבונה בור פסילה כאי (*ibid.*).

There are some variants, as the omission of קמ"ל (12b) and קמ"ל דמצטרף (13a). There are also some corrections by a later hand. Thus the words כן הכנחה (13b), which had been omitted, were inserted above the line.



This fragments belongs to the same codex as Nos. 92, 93, and 94.

A narrow piece of parchment, beautifully preserved, measuring  $5\frac{3}{4} \times 3\frac{1}{2}$  ins. ( $=14.9 \times 8.8$  cm.). Eighteen lines have been preserved to a page. Bold square character. While the lines are complete in themselves, the leaf must have been considerably longer (about thirty lines to a page), as a great number of words is missing between recto and verso. There may have been two columns to a page, one of which is cut off. [Amram.]

## 92

Part of tractate Menahot. 16a–16b.

Recto begins with *בין בשלישית ופליני* (16a, l. 37), and ends with *מהנה [והתניא ארבעים וש]* (16b, l. 13). About one line is missing between recto and verso; the latter begins with *מעכבי הא כמאן דאמ' דאמ' (ibid., l. 14)*, and ends with *לא קשיא ליה הא לא קשיא (ibid., l. 29)*.

There is a number of variants, as *כל העושה על הראשונה... פנול* for *כנון כנון שפינל בראשונה ובשנייה* (16a, l. 43); *ראשונה... פינולי* for *כנון כנון שפינל בראשונה ובשנייה* (16a, l. 43); *ובשלישית* for *ובשלישית* (16b, l. 1); *והא בין קתאני קשיא* for *והא בין קתאני* (16b, l. 1); *מחירין* for *מחירין* (16b, l. 5,6); *מערבין* for *מערבין* (16b, l. 12); *לפנל* for *לפנל* (16b, l. 19); *והבא לקדש כבא* for *והבא לקדש דמי* (16b, l. 23–29).

This fragment belongs to the same codex as Nos. 91, 93, and 94.

A narrow piece of parchment, beautifully preserved, measuring  $8\frac{1}{16} \times 3\frac{7}{16}$  ins. ( $=22.6 \times 8.6$  cm.). It is trimmed on all sides, but the length of the lines is intact. Twenty-nine lines have been preserved to a side; but judging from the missing words, each page seems to have had about thirty lines. There may have also been two columns to a page, one of which is cut off. Bold square character. [Lederer.]

## 93

Part of tractate Menahot. 17a.

Recto begins with *דומיא דהנך* (17a, l. 10), and ends with *הקטיר מעכבין זה את זה שבע היות* (17a, l. 29). Verso begins with *א"ר אסי שבפרה* (Mishnah 3 to end). This is followed by *א"ר יוחנן בלשון אכילה* (17a, last line).

It is obvious that in this manuscript each chapter was preceded by the entire Mishnah appertaining to it, as in the Yerushalmi.

There are some variants, as the omission of לא before הנך (l. 12), אבי (l. 19), and מ"ט (l. 24); it has רב חסדא דאמ' for א"ר חסדא (l. 20) and איד' for אבא (l. 21).

This fragment belongs to the same codex as Nos. 91, 92, and 94.

A narrow piece of parchment, beautifully preserved, measuring  $7\frac{1}{2} \times 3\frac{9}{16}$  ins. (=  $19 \times 9$  cm.). Twenty-four lines have been preserved to a page. Bold square character. While the lines are complete in themselves, the leaf must have been considerably longer (about thirty lines to a page), as a great number of words is missing between recto and verso. There may have been two columns to a page, one of which is cut off. [Amram.]

## 94

Part of tractate Menahot. 18a–18b.

Recto begins with להניח דברי הכל פסול (18a), and ends with אמ' אשריכס (*ibid.*). Verso begins with פסול אחנייה (*ibid.*), and ends with ולא תורת פתיחין איכא (18b). The Mishnah is not given, for in this codex, as in the Yerushalmi, each chapter was preceded by the entire Mishnah appertaining to it.

There are some variants, as וחזרת' על כל תלמידיו ולא מצאתי instead of תלמידיו ובקשתי... (18a). There are also some mistakes which have been corrected by a later hand. Thus ששכתה לי פסול for ששנית (*ibid.*).

This fragment belongs to the same codex as Nos. 91, 92, and 93.

A narrow piece of parchment, beautifully preserved, measuring  $7\frac{3}{4} \times 4\frac{1}{8}$  ins. (=  $18.7 \times 10.4$  cm.). Twenty-four lines have been preserved to a page. Bold square character. While the lines are complete in themselves, the leaf must have been considerably longer (about thirty lines to a page), as a great number of words is missing between recto and verso. There may have been two columns to a page, one of which is cut off. [Amram.]

## 95

Part of the 'Arak by Nathan b. Jehiel of Rome.

Recto begins with ידיו וירעני זה המניח עצם (s. v. אוב), and ends with להרליק בו ראש לא (s. v. אבוב). Verso continues recto, though the first few words are torn off, and ends with וישתה את אבוב רואה (s. v. אבוב רואה).

There are some interesting variants. The quotation from Bereshit Rabbah 19 (*s. v.* אנבית) is as follows: שבעת ייסורין מצוין על בני אדם קור וחוס חמה ואנבית.

This leaf belongs to the same fascicle as No. 96, which continues it. Indeed the small portion attached to this fragment is part of No. 96.

One paper leaf and a small portion of another, badly damaged and torn, measuring  $8\frac{1}{2} \times 6\frac{1}{8}$  ins. ( $= 21.6 \times 15.5$  cm.) There are twenty-two lines to a page. Square character with a strong tendency to cursiveness. [Amram.]

## 96

Part of the 'Aruk by Nathan b. Jehiel of Rome.

Recto begins with פירוש עשב הוא (*s. v.* אנב רואה) and the last legible words are בנמרא דהשכר אמ' (*s. v.* אביי). Some words are missing between recto and verso; the latter begins with שהן פרודות, and the last legible words are רב האין אב בית דין.

This leaf contains important variants, as ונקרא בלשון ישמעאל אנבוב; ונקרא אנבוב אלרעאי בל' ישמעאל for אלרעאי לאבירה שלא נמצא כמותה; ונקרא אנבוב אלרעאי בל' ישמעאל for לאביר שלא נמצא כמותה (the reading of this fragment is decidedly superior). There is also a number of scribal errors.

One paper leaf, badly damaged and torn, measuring  $7\frac{3}{4} \times 6\frac{1}{8}$  ins. ( $= 19 \times 15.5$  cm.). Recto has preserved eighteen lines, while verso still has twenty-one. Square character with a strong tendency to cursiveness.

This leaf belongs to the same fascicle as No. 95 of which it is a continuation. Indeed the small portion attached to No. 95 is part of this fragment. [Lederer.]

## 97

Part of the 'Aruk by Nathan b. Jehiel of Rome.

These fascicles cover the words רצן—פץ. Of this section about a fourth has been preserved, as eighteen leaves are missing altogether, while more than a half of each leaf is cut off.

This fragment contains some interesting variants. There are indications that the author arranged his work into books and chapters, which were numbered. Every letter of the alphabet formed a separate

book, and there were accordingly twenty-two books, while the second letter of the word began a new chapter. Thus all words beginning with **אב** belonged to book 1, chapter 1, while words beginning with **אנ** were included in book 1, chapter 2, and so forth. Being an adherent of the biliteral theory, the author did not make a separate chapter for the third radical. Owing to the missing parts in this fragment, most of the chapter headings are missing, and none of the book headings is given; but the following are numbered: **פרק י"ח** before **פר** (fol. 3b); **פרק נ'** before **צד** (fol. 14a); **פרק נ'** before **קה** (16a); **פרק ו'** before **קט** (fol. 17a); **פרק י'** before **רך** (fol. 21b); **פרק י"ו** before **רץ** (22a).

The first word of each paragraph is in large square character.

Twenty-two parchment leaves, made up into five fascicles. Size  $4\frac{1}{8} \times 7\frac{7}{8}$  ins. (=10.4×20cm.). Originally each fascicle seems to have consisted of eight leaves, but only the first fascicle had been preserved in its entirety. At present fascicle 1 has eight leaves,

"	2	"	six	"
"	3	"	four	"
"	4	"	two	"
"	5	"	two	"

Only thirteen lines to a page have been preserved; but judging from the missing parts, fifteen lines or more have been cut off. Accordingly there must have been twenty-eight or thirty lines to a page. Square character with a strong tendency to cursiveness. [Amram.]

## 98

Part of a Hebrew-Arabic glossary to the Mishnah. Only difficult or unusual words and expressions are explained. The arrangement of the words is not alphabetic, but follows the order in which they occur in the Mishnah.

This fragment, some parts of which are entirely obliterated, covers the following tractates:

Horayot: The first expression that can readily be deciphered in line 1 is **קרבן עולה ויורד** (2.9); Abot: The first word is **הרבנות** (1.10). The next word is **גדר** (1.13); Zebahim: The first word is **הכחיר** (2.4); Menahot: The first word to the explained is **אכוב** (10.4). The fragment ends with **ז'ר'ר' סימן לשתי הלחם י'ה'ז' סימן** (11.4).

One parchment leaf, measuring  $6 \times 5\frac{1}{2}$  ins. ( $=15.2 \times 14$  cm.). Number of lines on recto and verso is thirteen and fourteen, respectively. Square character. [Adler.]

## 99

Part of Rashi's commentary on tractate 'Erubin (without text). 88b-89b.

Fol. 1a begins with שיעור ד' אמות על ד' אמות (88b), and 1b ends with ואמ' הצירות וגנות וקרפיות (89a); fol. 2a continues 1b, and 2b ends with שיש מחיצה על זה (89b).

There are some interesting variants. Thus the printed edition has וכלים ששבתו בנג זה (89a). This fragment, however, reads וכלים שבתוך הנג זה.

Two paper leaves, forming the inner sheet of a fascicle, measuring  $6\frac{13}{16} \times 5\frac{1}{4}$  ins. ( $=17.3 \times 13.3$  cm.). Number of lines ranges from twenty-four to twenty-five to a page. Square character with a distinct tendency to cursiveness. [Amram.]

## 100

Part of the Arabic original of Maimonides' commentary on the Mishnah. This fragment contains a portion of the preface explaining the reason for the arrangement of the various tractates.

Fol. 1 discusses the arrangement of the tractates from Kil'ayim to Ta'anit. Some leaves are missing between 1b and 2a. The latter begins with Horayot, and 2b ends with Kinnim.

Two paper leaves, badly damaged and faded, forming the outer sheet of a fascicle. Size  $8\frac{1}{2} \times 5\frac{3}{4}$  ins. ( $=21.6 \times 14.3$  cm.). Number of lines ranges from twenty-one to twenty-two to a page. Square character with a strong tendency to cursiveness. [Amram.]

## 101

Part of Maimonides' Arabic commentary on Mishnah Middot.

Recto begins with middle of 1.8. The second chapter is headed פ'ק שני in a large square hand. Verso ends with the middle of 2.4.

One paper leaf, slightly damaged and faded, measuring  $9\frac{1}{2} \times 6\frac{1}{2}$  ins. ( $=24.1 \times 16.4$  cm.). Number of lines ranges from twenty-three

to twenty-four. Square character with a tendency to cursiveness. [Amram.]

## 102

Part of the commentary of Nahmanides on Niddah (חרושי נדה) (להרמב"ן).

Recto begins with תריוהו שיעורא לטהור (Niddah 14b; Commentary, חמשה שיטות, Sulzbach, 1752, p. 82c, l. 17), and verso ends with כשאין להוסיף אבל לחוש (Niddah 15a; Commentary, *ibid.*, l. 58). There are some important variants.

This leaf belongs to the same codex as Nos. 103, 104, 105, and 106.

One paper leaf, measuring  $7\frac{1}{16} \times 5\frac{5}{8}$  ins. (= 20.1 × 14.3 cm.). There are twenty-four lines to a page. Rabbinic cursive character. [Adler.]

## 103

Part of the commentary of Nahmanides in Niddah (חרושי נדה) (להרמב"ן).

Fol. 1a begins with לחוש לשניהם כאחת אין לו (Commentary, p. 82c, l. 58). After לפני האלהים ימלט ממנו our manuscript inserts a few lines from a paragraph which should be placed in the next page. This paragraph is כתיב 'ב"ש אומ' צריכה (op. cit., p. 82d, l. 20). It is afterwards repeated. This commentary continues till the bottom of fol. 2b which ends with חששו כולם שמא ראתה (op. cit., p. 83a, l. 4). Sixteen leaves are missing between fol. 2b and 3a. The sixteen leaves marked 104 are to be inserted here. Fol. 3a begins with סתומין או מופין (op. cit., 85c, l. 37). This commentary continues till the bottom of fol. 4b which ends with אלא מדרקתני ברית' שלשה (op. cit., p. 85d, l. 56).

This fragment offers a number of variants some of which involve complete sentences, while others are merely phraseological. The pages of tractate Niddah are marked on the margin by a later hand.

This fragment belongs to the same codex as Nos. 102, 104, 105, and 106.

Four paper leaves.  $8\frac{1}{16} \times 5\frac{1}{16}$  ins. (= 20.4 × 14.4 cm.). Number of lines on each page is twenty-four. Rabbinic cursive character.

These four leaves formed the outer sheets of a fascicle which, perhaps, consisted of twenty leaves. The inner sixteen leaves are found in the Adler collection (see No. 104). [Friedenwald.]

## 104

Part of the commentary of Nahmanides on Niddah (הרושי נדה (להרכב"ן).

This fragment begins with כהמת תשביש ומניחין העדים (Commentary, 1762, p. 83a, l. 4), and ends with ואין הרין היה אלא כשהפתחים כולן (*op. cit.*, 85c, l. 37).

The variants are very slight in this fragment. The pages of tractate Niddah are marked on the margin by a later hand.

This fragment belongs to the same codex as Nos. 102, 103, 105, and 106.

Sixteen paper leaves, measuring  $8\frac{1}{16} \times 5\frac{11}{16}$  ins. (=  $20.4 \times 14.4$  cm.). Number of lines on each page is twenty-four. Rabbinic cursive character. These sixteen leaves are fastened together by a string. They are continuous, and are to be inserted between fol. 2b and 3a of No. 103. [Adler.]

## 105

Part of the commentary of Nahmanides on Niddah (הרושי נדה (להרכב"ן).

Fol. 1a begins with ואילו... ולא יחללו (Niddah 32a; Commentary, 86a, l. 8 from bottom), and fol. 16b ends with דאי הכי מייעשי כאי אהני לי (Niddah 40b).

There is a number of variants, some of which are important. This fascicle belongs to the same codex as Nos. 102, 103, 104, and 106.

Sixteen paper leaves, fastened by a string and forming one fascicle. Size  $7\frac{1}{16} \times 5\frac{5}{8}$  ins. (=  $20.1 \times 14.3$  cm.). There are twenty-four lines to a page. Rabbinic cursive character. [Adler.]

## 106

Part of the commentary of Nahmanides on Niddah (הרושי נדה (להרכב"ן).

Fol. 1a begins with ולפי כדה זו יש שטהורה בשביעי לביתה (Niddah 42a; Commentary, p. 89b, l. 26), and fol. 18b ends with לשון ארינה לומ' (Niddah 61b; Commentary, p. 92a, l. 59). There is a number of variants, some of which are important. This fascicle belongs to the same codex as Nos. 102, 103, 104, and 105.

Eighteen paper leaves, fastened by a string and forming one fascicle. Size  $7\frac{15}{16} \times 5\frac{5}{8}$  ins. ( $=20.1 \times 14.3$  cm.). There are twenty-four lines to a page. Rabbinic cursive character. [Adler.]

## 107

Part of a kabbalistic commentary on tractate Berakot. Recto of each leaf is headed **מסכת ברכות**, while verso has the superscription **פרק א**.

Fol. 1 has nothing but the commentary, but the lower right-hand corner of fol. 2a has **תניא אמר ר' יוסי** (Berakot 3a), which is continued on the right side of 2b, the commentary being written on the left side. The quotation from the text ends with **א[ת] בני לבין** (*ibid.*).

The text is shorter than that of the printed editions, and there are some lexical variants, as the words **תפלה קצרה** ... **שלום עליך** **אוי לי** **שהחרבתי את ביתי ושרפתי את איכלי** (!) **א[ת] בני לבין** are omitted, and it has **א[ת] בני לבין**.

Two paper leaves, badly damaged and faded, forming the inner sheet of a fascicle. Size  $8\frac{3}{4} \times 6\frac{1}{2}$  ins. ( $=22.2 \times 16.4$  cm.). There are twenty-eight lines to a page. The text is in bold square character, while the commentary is in a Spanish cursive hand. [Amram.]

## 108

Part of a commentary or responsum on tractate Hagigah 21b and 22a (in connection with the immersion of vessels).

The opinions of Raba and R. Ela (fragment reads **אלעאי**, whereas printed edition has **אילא**) are quoted.

A narrow piece of parchment, the greater part of which is torn off, measuring  $6\frac{1}{2} \times 2\frac{3}{4}$  ins. ( $=16.4 \times 7$  cm.). Recto has nineteen lines, while verso has twenty. Square character with a tendency to cursiveness. [Amram.]

## 109

Part of a commentary on tractate Yebamot 22b–25a. This commentary is more extensive than that of Rashi.

Recto discusses **פרט לאחות משפחה** (22b). The page must have been very large, as verso begins with the explanation of **כי ניים ושכיב רב** (24b). The last words are **כי ליכא עדים לא תצא** (discussion of 25a).



A piece of parchment, faded and badly damaged, only the lower corner having been preserved. Size  $5\frac{3}{4} \times 7\frac{1}{8}$  ins. (=  $13.7 \times 17.9$  cm.). The number of lines cannot be ascertained. Rabbinic cursive character. [Amram]

### III

Part of an Arabic commentary on tractate Baba ḥamma 47a-50a.

Fol. 1a has explanations of the words פִּטְמָא and נִפְחָא (47a). This is followed by הַקָּדֵר שֶׁהַכֵּנִים קִדְּרוּהוּ, and the discussion is continued on 1b; 2a begins with וְשׁוֹר שֶׁהָיָה כְּכוּיִן לַחֲבִירוֹ (48b), and 2b ends with the discussion on R. Ishmael's supposed opinion concerning the owner of the pit (50a).

Two paper leaves, slightly damaged, measuring  $6\frac{1}{2} \times 5$  ins. (=  $16.4 \times 12.7$  cm.). The number of lines ranges from sixteen to nineteen to a page, except 1b which has only seven, the lower half being blank. [Amram.]

### III

Part of a lengthy commentary on tractate Shebu'ot. These two leaves cover Shebu'ot 12a-14b.

No authorities are quoted; but the writer seems to belong to the school of Naḥmanides.

Two paper leaves, one of them badly damaged and torn, measuring  $7\frac{1}{8} \times 5\frac{1}{8}$  ins. (=  $18.1 \times 15$  cm.). The upper part is torn off, and the number of lines preserved is twenty-two to a page. Square character with a strong tendency to cursiveness. [Amram.]

### III

Part of an extensive commentary (not by Naḥmanides) on 'Abodah Zarah. 37b-38b.

Recto begins with an explanation of סֵפֶק טוֹמָא (37b), and verso ends with בֵּין שֶׁהָיָה נִי (38b).

One paper leaf, badly damaged and torn, measuring  $7\frac{1}{2} \times 5\frac{1}{4}$  ins. (=  $19 \times 14.6$  cm.). Recto has twenty-two lines, while verso has twenty-three. Square character with a distinct tendency to cursiveness. [Amram.]

## 113

Colophon of a book entitled *מדרש בראשית* (not Bereshit Rabbah).

Recto has the concluding formula of the book, which ends *נמר מדרש בראשית תם*. While practically the entire passage, consisting chiefly of biblical verses of consolation, is in Hebrew, there are two Arabic words (*ויחבת קולה*: 'may He fulfil His promise') which would lead to the assumption that the book was written in Arabic, though not necessarily so.

Verso is blank.

One paper leaf, measuring  $8 \times 5\frac{7}{8}$  ins. (=  $20.3 \times 14.9$  cm.). Oriental cursive character. [Amram.]

## 114

Part of a haggadic commentary on Genesis similar to Midrash Rabbah.

Fol. 1 covers the end of *Wayyesheb* and the beginning of *Mikkes* (Genesis 40.18–41.3). Some leaves are missing between fol. 1b and 2a. Fol. 2 deals with *Wayyiggash* (*ibid.* 46.28–47.14).

This fragment contains additional matter not found in the printed text of the Midrash Rabbah.

Two paper leaves, badly damaged and faded, forming the outer sheet of a fascicle. Size  $6\frac{3}{8} \times 4\frac{3}{4}$  ins. (=  $16.1 \times 12$  cm.). The upper part is torn off, but there were at least thirty lines to a page. Square character with a tendency to cursiveness. [Amram.]

## 115

Part of a rationalistic treatise on haggadic passages in the Midrash and Talmud.

Fol. 1b begins with *האלהית ודעיהו* which concludes the writer's discourse on some haggadah. This is followed by *ר' יהושע אומר לבן מלכים שהיה פדונו נכנס אצלו ואולם חי* (Exodus Rabbah 38.8), and by *אני אומר רבא אומר ר' יצחק אומר לו הב' למשה משה החייתי ברברין* (Berakot 32a). At the bottom of this page is the word *חלילה* with which the following page began. Some leaves are missing between fol. 1b and fol. 2a. The latter concludes a discourse perhaps on *לאדם* (Berakot 35a). This is followed by *אמר היה ר' מאיר אומר רב כל ברכה שאין בה הזכרה אינה ברכה* (*ibid.* 40b) and *מנין שאף עיברים שבנעני אמן אמרו שירה* (*ibid.* 50a). Fol. 2b concludes the

discourse on the preceding passage, and is followed by *אבן שבקש עני* לזרוק לישראל נמרי לה (*ibid.* 54b).

Maimonides is quoted: *יכבר ביאר הרמב"ם ז"ל שתי השנוות האלה* (fol. 2b, l. 23). *בהנרות הנעלמות בפתיחת פירוש המשנה שלו*.

The text of the Midrash and Talmud presents numerous variants.

Two paper leaves, measuring  $7\frac{3}{8} \times 6\frac{1}{8}$  ins. ( $= 20 \times 15.5$  cm.). Number of lines on each page is twenty-seven. Rabbinical cursive character. Fol. 1 is pasted to a piece of cardboard which was one of the covers of this codex. Fol. 1a is thus entirely covered. Fol. 2a is marked ק"ח which proves that we are in the middle of the book. [Adler.]

## 116

Part of a collection of homilies for various occasions and discourses on midrashic passages.

The first six leaves deal with a sermon in connection with the Book of Joshua. Fol. 6b has only six lines, the rest of the page being blank. It bears *חם ונשלים*. Fol. 7a is headed *יהושע*, and begins the discourse with Joshua 14.6. This ends on fol. 8a. On the next page there is a sermon headed *דרוש לנפטרות*, which ends on fol. 11b. Then follows a discourse headed *מאמר לפרשת ויצא*, which ends on fol. 13a, l. 11. Then follows a short discourse on *חנינא אמר כ"ב* (Leviticus Rabbah 34.1). The six leaves referred to above contain four short homilies on midrashic subjects, the third of which is headed *למחן תורה*. The last two leaves are in the same writing as the first fourteen. They contain two homilies for Passover. The first is headed *ספרי מאמר ליום שביעי של פסח*, and the second *מאמר אחר לפסח שמות רבה*. Of the latter the first part alone has been preserved.

It belongs to the same codex as No. 117.

Twenty-two paper leaves, fastened together by a string and forming one fascicle. The leaves are numbered, and are in consecutive order from *סא* to *מז*. Size  $8\frac{1}{8} \times 5\frac{15}{16}$  ins. ( $= 20.6 \times 15$  cm.). With the exception of six leaves (marked from *סנ* to *נח*, which are in an entirely different hand, and may have been inserted from another codex or from another treatise), there are twenty-three lines to a full page. The other six leaves have twenty-four lines to a page. Italian rabbinic cursive character, while the headings are in a beautiful square hand. [Adler.]

## 117

Part of a collection of homilies for various occasions and discourses on midrashic passages.

Fol. 1a begins with the middle of a discourse on **אין אז אלא לשון** (Exodus Rabbah 23.4). This discourse is concluded at the bottom of fol. 1b. Fol. 2a is headed **למתן תורה**, and has a discourse on **א"ר אלעזר בר חנינא בשם ר' אחא כ"ו דורות היה האלף** (Bereshit Rabbah 1.10). Six difficulties are pointed out by the author, and he proceeds to answer them. At the end of fol. 2b we are still in the middle of the discourse.

It belongs to the same codex as No. 116.

Two paper leaves, measuring  $8\frac{1}{16} \times 5\frac{7}{8}$  ins. (=20.4×14.9 cm.). Number of lines on each page is twenty-three. Italian rabbinical cursive character. The leaves are marked **ס"ח**, **ס"ז**. [Friedenwald.]

## 118

Part of a book containing stories from rabbinic literature on the merits of charity.

One parchment leaf, torn and faded, measuring  $6\frac{3}{4} \times 4\frac{1}{2}$  ins. (=17.1×11.4 cm.). Number of lines ranges from thirty to thirty-two. Small square character with a tendency to cursiveness. [Amram.]

## 119

Part of a treatise, in Hebrew, in the form of an ethical will, on the merits of charity. It contains abundant quotations from rabbinic literature.

Two paper leaves, slightly damaged, forming the outer sheet of a fascicle. Size  $8\frac{1}{16} \times 5\frac{5}{8}$  ins. (=20.4×14.3 cm.). Number of lines ranges from twenty-five to twenty-six to a page. Square character with a distinct tendency to cursiveness. [Adler.]

## 120

Fragment of **הלכות פסיקות**.

Recto begins with **שפחה** (p. 85, l. 17 of Schlossberg's edition, 1886), and ends with the paragraph **ואלו מלאכות שהאשה עושה לבעלה** (*ibid.*, p. 86, l. 4). It seems that in our fragment this paragraph was

longer. But this part is almost entirely damaged, and the nature of the additional matter cannot be ascertained.

Verso begins with **את בנה** [ומניקה] (*ibid.*, p. 86, l. 12), and ends with **או אין לה** (*ibid.*, p. 86, l. 2 from bottom).

Our fragment offers a number of important variants. Thus the printed edition has **מיניקה אסור להנשא ימי מניקתה** (*ibid.*, p. 85, l. 19) while our fragment reads **מיניקה עד שיחמו ימי מניקתה**.

In our fragment after the precept about nursing a baby there is a precept about the share a daughter is to have in her father's inheritance. The case dealt with is that of a man who dies without leaving a will. This precept hardly belongs here, and is missing in the printed edition. The formula of introducing a talmudic passage in the printed edition is **תנו רבנן**; but our fragment has **שני הכנים**.

One parchment leaf, measuring  $7\frac{3}{4} \times 6\frac{1}{2}$  ins. (=  $20 \times 17.4$  cm.). Number of lines on each page was probably twenty-nine. The lower part is badly damaged, and the writing is scarcely legible; it is therefore impossible to ascertain the exact number of lines. Square character. [Friedenwald.]

## 121

Six responsa in Arabic and part of Hefes b. Yasliah's Book of Precepts.

Responsum 1 (fol. 1a) is a discussion about the representative a woman appoints to receive her bill of divorce. Only the end of this responsum is preserved.

Responsum 2 (fol. 1b) deals with the question whether the prohibition against making a betrothal party on a festival refers to that which the bridegroom makes or to that which the bride's father makes for the bridegroom. The answer is that it refers to the latter.

Responsum 3 (*ibid.*) deals with the question whether it is permissible to rescue a Jew who had confessed to murder and was arrested and sentenced to death by a non-Jewish court. In the reply several passages from the Talmud are cited, and the decision is that it is not only permissible, but it is the duty of every Jew to rescue that man by all possible means.

Responsum 4 (fol. 21b) deals with the question whether a Jew may have his unleavened bread baked by a non-Jew who acquired skill in kneading and baking rapidly, thereby preventing fermen-

tation of the dough. The reply is that if a Jew supervises the work, such a procedure is to be recommended. Incidentally the writer speaks of the limit of the quantity of dough that may be baked at one time.

Responsum 5 (fol. 4b) deals with the question whether a man is permitted to obstruct the prayers in order to have his grievances redressed. The answer is that it is allowed; but if after being promised redress, he persists in obstructing, he should be ejected.

Of responsum 6 (*ibid.*) only the beginning of the question is preserved. It deals with people who come to synagogue in the early hours of the morning during the festivals and Sabbaths to recite Psalms.

Fol. 5a-fol. 36a contain part of the Book of Precepts (כתאב אלשראיע) by Hefes b. Yasiah. Our fragment begins with the middle of the eighth precept of the third section of part 3, book 3. This part deals with civil law appertaining to damages and sacrifices that are to be brought as a duty.

Part 4 (fol. 12b) is headed אלפצל אלד' מן אלשראיע תאליף ראס אלכל חפץ בן יצליח פי אלקראבין אלמפעולה תטועא ופי מנע חקריב דלך עלי אלמזבח מן לים מן ולד הרון ופי אלנדור פי אלאמואל וקים אלנפוס יחיו ל' שריעה.

Part 5 (fol. 29a) is headed אלפצל אלה מן אלשראיע פי ננאסאת מכצוצה תאליף ראס אלכל חפץ בן יצליח מנהא פי אלחמל ואלדרנו בתת חיואנאת מכצוצה וניר דלך יחיו ט' שראיע אואמר תלוס פי כל זמאן ומכאן. At the end of fol. 36a we reach as far as the middle of precept 3 of book 5 which is a very long one and deals with the defilement of vessels. Here the manuscript breaks off, though we are in the middle of a sentence, and fol. 36b is blank. This codex, therefore, never contained the entire book.

Fol. 37a has in plain square writing

ליעקוב ברבי יצחק הלוי  
לבנו יחירו להנות בו הוא וצאצאיו  
אמן סלה.

Fol. 37b has, in a different writing, a list of debtors who owed money to one of the owners of this codex.

ענר אבו אלעלי ד' דנא' וי' קרא  
ענר אבו אלפרנ ב' וי' קרא  
ענר יוסף י' ורק ענר אלמעלס ו' ורק

See *JQR.*, N. S., vol. III., p. 317.

This fragment was published with a Hebrew translation, notes, and an introduction by B. Halper, Philadelphia, 1915.

Thirty-six and a half paper leaves, measuring  $6\frac{1}{16} \times 5\frac{5}{16}$  ins. ( $=17.6 \times 13.5$  cm.). The number of lines on a page of the first four leaves ranges from 18 to 19, while the pages of the remainder of the codex have 23, 24, and 25 lines. Oriental square character with a tendency to cursiveness. These leaves are made up into four fascicles which are fastened together by a string. The first fascicle which hangs rather loosely contains four leaves. It is no doubt incomplete. The other fascicles originally consisted of ten leaves each. As was customary among scribes, the last page of a fascicle bears at the bottom the word with which the following fascicle begins. Every fascicle is marked by a letter of the alphabet. Guided by these signs we can know with certainty that the first fascicle did not form part of the original codex, and that the fascicle which is now second was the first, for the third, fourth, and fifth fascicles are marked ב, ג, and ד, respectively. Of the second fascicle eight leaves are preserved; the first two leaves are torn off, while the last two are pasted to the following fascicle. It thus appears to have only six leaves. Fascicles 3 and 4 are complete, each having ten leaves. The last fascicle has only three and a half leaves of writing belonging to this codex, the verso of the fourth leaf being blank, while fol. 37 which is a narrow strip bears a few notes by a later hand (see above).

The first four leaves are of a lighter hue than the others, but the writing is similar, if not identical with that of the other fascicles. [Adler.]

## 122

Part of a Book of Precepts in Jewish-Arabic. The preserved fragment was part of the introduction in which the author explained his system. This work is neither by Maimonides nor by Hefes b. Yasliah, although the author followed the latter in many respects. Apparently Hefes may have been the author, except for the fact that in this fragment the word מצוה is employed, whereas Hefes invariably uses שריעה. Is it identical with the work a fragment of which was published by Neubauer in *JQR.*, VI, p. 705?

Two paper leaves, forming the inner sheet of a fascicle, measuring  $6\frac{5}{16} \times 5\frac{1}{4}$  ins. ( $=16 \times 13.3$  cm.). Number of lines ranges from seventeen to eighteen to a page. Oriental square character with a tendency to cursiveness. [U. P.]

## 123

Part of Al-Fasi's compendium of Pesahim.

Fol. 1a begins with ינה"ק מאי הוי עלה (chapter 10, p. 20b, l. 36, Vilna edition), and 1b ends with בריך אכסא קמא וא' (21a, l. 15); fol. 2a continues 1b, and 2b ends with ברכות כולהי רקא (*ibid.*, l. 28).

The words ברין על כל כסא וכסא מר זוטרא fell out through homoioteleuton. Otherwise there are some insignificant variants.

These leaves are to be inserted in No. 124.

Two paper leaves, badly damaged, forming the inner sheet of a fascicle. Size  $6\frac{1}{8} \times 4\frac{11}{16}$  ins. (=15.5×11.9 cm.). There are thirteen lines to a page. Square character with a slight tendency to cursiveness. [Amram.]

## 124

Part of Al-Fasi's compendium of Pesahim.

Fol. 1a begins with מכלל דברברים שטענין ברכה (chapter 10, p. 20b, l. 10. Vilna edition), and 1b ends with אמ' שמואל אין הלכה (*ibid.*, l. 25). Some leaves are missing between fol. 1b and 2a (No. 123 is to be inserted here). The latter begins with ליה בין יום השביעי לששת ימי (21a, l. 38), and 2b ends with הכי נהני העם למימר שלוש (*ibid.*, l. 48).

There are some variants, as the omission of איברא at the beginning of fol. 2a. Instead of העם in last line of 2b, the scribe first wrote עלמא which he crossed out.

This fragment belongs to the same codex as No. 123.

Two paper leaves, forming the outer sheet of a fascicle. Size  $6\frac{1}{8} \times 4\frac{11}{16}$  ins. (=15.5×11.9 cm.). There are thirteen lines to a page. Square character with a slight tendency to cursiveness. [Amram.]

## 125

Al-Fasi's compendium of Baba batra.

Recto begins with בין שבת ארוס (Vilna edition, 67b, last line), and verso ends with אלן נבין (68a, end of Mishnah).

One paper leaf, badly damaged and faded, measuring  $9\frac{1}{16} \times 5\frac{5}{8}$  ms. (=23×14.3 cm.). Recto has nineteen lines, while verso has only seventeen. Square character with a strong tendency to cursiveness. [Amram.]



## 126

Part of Al-Fasi's treatise on *Tefillin*, extracted mostly from tractate *Menaḥot*, chapter 3, with a commentary.

Fol. 1a begins with the commentary, which is followed by **הא' מעברתא דתפילין** (Vilna edition, 7a, bottom). Some leaves are missing between fol. 1b and 2a. The latter begins with **בן לקיש אין מעבירין על** (8b, l. 8), and fol. 2b ends with **וימים טובים** (*ibid.*, l. 29). There are some important variants.

Two paper leaves, torn and faded, forming the outer sheet of a fascicle. Size  $6\frac{3}{4} \times 5\frac{3}{16}$  ins. ( $=17.1 \times 13.2$  cm.). There are thirteen lines to a page. Square character with a distinct tendency to cursiveness. [Amram.]

## 127

Fol. 1 is part of Al-Fasi's compendium of tractate *Hullin*.

Fol. 1a begins with **הפת כולה אכורה** (al-Fasi, *Hullin*, p. 38, l. 13, Vilna edition), and ends with **הא קא משמע לן** (*ibid.*, 38b, l. 9). fol. 1b continues 1a, and ends with **של בין השנים** (*ibid.*, 39a, l. 17).

The paragraphs which are included in brackets in the printed edition are missing here. They are obviously later interpolations, as they are not found in the extensive commentary of R. Nissim. Thus the long paragraph from **טפת חלב** (38a, l. 15) to **אפשר לכוזבו מותר** (38a, l. 46) is missing in our fragment, and not a single note on it occurs in R. Nissim's commentary.

Sporadic vocalization and marginal notes have been added by a later hand. The notes supply sentences which were omitted by the scribe.

Fol. 2 contains part of a treatise in Arabic on the ordinances concerning *Sheḥiṭah* and *Terefot*. The style and orthography are rather vulgar. as a rule a short *u* is represented by **ي**, but in some cases it is indicated by **و**.

Is it by Samuel b. Jacob ibn Jam'?

Two parchment leaves, measuring  $6\frac{1}{8} \times 6\frac{1}{16}$  ins. ( $=15.5 \times 15.3$  cm.). Number of lines on each page of fol. 1 is fifteen, while on fol. 2a and 2b there are twenty-two and twenty-one lines, respectively. Square character with a tendency to cursiveness. These two leaves formed part of a fascicle the inner leaves of which are missing. The writing is the same on both leaves, but the characters of fol. 1 are much larger

than those on fol. 2. This is to be accounted for by the fact that different treatises are written on these leaves. [Adler.]

## 128

Part of Maimonides' *Yad ha-Ḥazakah. Hilkot Talmud Torah. 4.7-5.3.*

Recto begins with הרב אלא בעניין (4.7), and verso ends with מותר להשיב ולהפריש מן ה' (5.3).

There are marginal notes in Arabic, added by a later hand, to explain difficult words. The word commented upon usually has a circle over it. Thus כמרהרה is explained by *يظن فيه* = יצן פיה.

The paragraphs are not numbered. Chapter 5 is headed פרק חמישי.

(It probably belongs to the same codex as the other *Yad ha-Ḥazakah* fragments of the Amram collection.)

One paper leaf, damaged, measuring  $9\frac{3}{4} \times 6\frac{7}{8}$  ins. (=  $24.8 \times 17.4$  cm.). There are twenty-two lines to a page. Square character with a tendency to cursiveness. [U. P.]

## 129

Part of Maimonides' *Yad ha-Ḥazakah. Hilkot Tefillah. 12.20-24.*

Recto begins with שיעלה המפטיר (12.20), and ends with וילול מבח' (12.24).

There are some insignificant variants, as צרכנו instead of יצטרכו (12.23). The word קריש is omitted in 12.20. The paragraphs are not numbered. The left-hand margin has scribbling in Arabic characters, and *بسم الله الرحمن الرحيم* is very plain.

Verso, which was originally blank, is covered with scribbling in Arabic characters.

One paper leaf, measuring  $9\frac{5}{16} \times 5\frac{7}{16}$  ins. (=  $23.6 \times 13.8$  cm.). Recto has nineteen lines. Square character with a tendency to cursiveness. [Amram.]

## 130

Part of Maimonides' *Yad ha-Ḥazakah. Hilkot Tefillah 13.14-Hilkot Tefillin 7.*

Fol. 1a begins with the middle of הלכות תפלה. The first line is אילו שאמרנו והשני קוראין בו (chapter 13, paragraph 14; the printed edition has אלו הענינות שאמרנו).

Chapter 13 of הלכות תפלה ends on fol. 3a, l. 13. Chapter 14 extends from fol. 3a, l. 14, to fol. 6b, l. 3. Chapter 15 extends from fol. 6b, l. 4, to fol. 8b, l. 19. This chapter which is the end of הלכות תפלה ends with (אמן נצח סלה) (=ברוך רחמן רסיען אנ"ס). Then follows the title הלכות תפלין ומוצה וספר הורה which ends fol. 8b, as well as the fascicle.

A leaf is missing between fascicle 1 and fascicle 2.

The first line of fascicle 2 (fol. 9a) is עזרה הן וניל וקלף ודוכסוסטוס (chapter 1, paragraph 6 of (הלכות תפלין וכו'). This chapter ends on fol. 12a, l. 4. Chapter 2 extends from fol. 12a, l. 5 to fol. 14, l. 16. Chapter 3 extends from fol. 14, l. 17, to fol. 19a, l. 1. Chapter 4 extends from fol. 19a, l. 2 to fol. 24, l. 5. Chapter 6 extends from fol. 24a, l. 6, to fol. 26a, l. 16. Chapter 6 extends from fol. 26a, l. 17, to the bottom of fol. 28b which is the end of our fragment. On the lower left-hand corner are the words פרק שביעי with which the next page began.

The last page of this manuscript is obliterated in many places.

Although the paragraphs are divided from one another by three dots, they are not numbered in this fragment.

Our manuscript offers a number of variants in phraseology.

Twenty-eight paper leaves, measuring  $9\frac{1}{16} \times 6\frac{1}{8}$  ins. ( $= 23 \times 15.5$  cm.). These leaves form three fascicles which are fastened together by a string. Originally each fascicle had ten leaves, and fascicles 2 and 3 still consist of this number. But the outer sheet, that is to say, two leaves of fascicle 1, is missing. Hence we miss one leaf at the beginning of this fascicle and one leaf at the end. Number of lines on each page ranges from twenty-two to twenty-three. Bold square character with a distinct tendency to cursiveness. [Adler.]

### 131

Part of Maimonides' *Yad ha-Ḥazakah. Issure Bi'ah*. First legible word is בלבר (1.5); last legible words are והטוב(טוב ס)פק הוא (1.7).

One paper leaf, slightly damaged, measuring  $9\frac{1}{8} \times 5\frac{3}{4}$  ins. ( $= 23.1 \times 14.6$  cm.). There are twenty-four lines to a page. Oriental square character, with a tendency to cursiveness. [U. P.]

## 132

Part of Maimonides' *Yad ha-Ḥazaqah*. *Hilkot 'Akum*, chapter 1.

Recto begins with אחר עבודה זרה, and ends with שלא לכשף; verso continues recto, and ends with מוסר הבלים (1.1).

One paper leaf, badly damaged and torn, measuring  $9\frac{1}{2} \times 6\frac{3}{4}$  ins. (=  $24.1 \times 17.1$  cm.). There are twenty-two lines to a page. Square character with a distinct tendency to cursiveness. [Amram.]

## 133

Part of Hebrew text and Arabic translation of Maimonides' *Yad ha-Ḥazaqah*. *Hilkot Sheḥiṭah* 2.7–15. The Arabic translation, which is literal, follows each paragraph. The first word or so in the Hebrew paragraphs is in red ink. Every Arabic paragraph is headed שרה, also in red ink. The paragraphs are not numbered.

Fol. 1a begins with the Arabic translation of בערפה (בקפאהא, 2.7), and fol. 6b ends with פסולי המקדשין (2.15).

This fragment contains lexical variants as well as differences in the arrangement of paragraphs. Thus הובאה for הבאה (2.8). Paragraph 10 begins with שחט שני ראשים כאחד שחיטתו כשרה וכן שנים שאחזו, whereas in the printed edition it begins with שנים ששחטו. We also have הרי זו שחיטה for הרי שחיטה (*ibid.*). Paragraphs 11 and 12 are run together, whereas paragraph 13 is divided into two (במה דברים being a new paragraph).

The translator may be Samuel ha-Dayyan (see No. 134).

Six paper leaves, forming a small fascicle of three sheets. Size  $5\frac{1}{2} \times 3\frac{3}{4}$  ins. (=  $14 \times 9.5$  cm.). Square character with a tendency to cursiveness. There are twelve lines to a page. [Amram.]

## 134

Probably the title page of a Jewish-Arabic book on the laws of slaughtering animals by Samuel ha-Dayyan ha-Maskil.

Recto has in bold square character: הלכת שחיטה ב' חציניף כ'נ'ק'. מרנו ורבינו שמואל הדיין המשכיל. Then follow a few phrases which may have been part of the preface

סאלת איהא אלולר אלעיוז ופקך אלה  
לטאעתה ואנאר בצירתך ברחמחה  
אן אנמע לך מא ינב עלי כן אראד

but the first line is repeated twice, and the rest is mere scribbling. It appears as though some one utilized the blank space to test his pen. This is confirmed by verso which has several times תרובה קלם, and a number of letters of the alphabet.

One paper leaf, damaged and torn, measuring  $6\frac{1}{2} \times 3\frac{3}{4}$  ins. (= 15.8 × 9.5 cm.). [Amram.]

## 135

Part of a collection of laws by various scholars of Rome.

Recto has the end of the laws of slaughtering by Abraham b. Elijah of Rome (שלמו הלכות שימיטה על ידי... אברהם בההר' אליה זלה"ה). This is followed by *Hilkot Terefah* by Judah b. Benjamin of Rome. The author's preface is first given, explaining the object of writing this book. Seeing many of his countrymen rendering decisions in a lenient way, relying in every case upon that gaonic authority who declares a thing permitted, the author 'arose to clarify matters'. Then comes the superscription פסקי הלכות בדריקה שחיבר ה"ר יהודה בה"ד בנימין נ"ע איש רומי וחלקם לשמונה.

One paper leaf, slightly damaged, measuring  $8\frac{1}{2} \times 5\frac{9}{16}$  ins. (= 20.6 × 14.1 cm.). Recto has eighteen lines, while verso has twenty. Square character with a tendency to cursiveness. [Amram.]

## 136

Fol. 1 contains excerpts from tannaitic literature. It might have been some sort of code similar to the *Halakot Pesuḳot*.

Fol. 1a begins with לא יהויר פניו אחורות למזרח ולמערב... העיתה פניך (comp. Berakot 62a). Then follows a paragraph marked ח which deals with the laws of writing a scroll. It begins with ריב אדם לעשית לו סיכה (comp. Sukkah 133b), and is followed by רבן שמעון בן אלעזר (comp. Sifre Re'eh, section 61, p. 87b, ed. Friedmann, where this statement is ascribed to R. Ishmael). Fol. 1b continues this paragraph as far as לא תעשו כן לה' אלהיכם (our fragment has לפני אדני). Then comes a new paragraph marked ט which begins with יש לך שימות שנמחקין וכו' (comp. Shebu'ot 35a). This page ends אבל כנון הנדול הנבור והנורא ויש אומרים על הנשיא. The last four words are from *Masseket Soferim* 4.9. See description of No. 137.

Some leaves are missing between fol. 1b and 2a. The two leaves of No. 137 are to be inserted here.

Fol. 2 is part of a theological treatise written in vulgar Jewish-Arabic. It divides prophets and prophecies into four categories. It begins with **מא וניב וכדי קאל פי מודיעאן אכר כי חוליד בניס ובני בניס**.

Both the Hebrew and the Arabic are badly copied. Words and even sentences are omitted, leaving the paragraphs disconnected. The orthography of the Arabic part is vulgar and phonetic. Almost in every case <sup>l</sup> and <sup>i</sup> are put after a short *u* and *i*, respectively. A long *a* is represented by **א** even where Arabic has **علي** = **עלא** **ي**: as **موضع** = **מודיע** **ض**, as **الثاني** = **אחני** **ي**; **النبي** = **אנבי** **ي**. No diacritical points are placed on any letter. **ر** stands for **ض**, as **موضع** = **מודיע** **ض**. The word **אן** after **מודיע** in the above quotation is a kind of enclitic, and should be compared with *ba'den* = "after" in modern Arabic. It is also possible that it merely stands for the nunation = *maudi'in*. When the **ل** of the definite article is assimilated to the following letter it is entirely omitted. Thus **الثاني** = **אחני** **ي**; **النبي** = **אנבי** **ي**. The first **י** in **אחני** doubtlessly represents *e* = classical *a*. A curious spelling is **الامة** = **אלאומיה**.

Two parchment leaves, forming the outer sheet of a fascicle. Size  $5\frac{1}{2} \times 4\frac{1}{2}$  ins. (=  $14 \times 11.4$  cm.). Number of lines on each page is thirteen, except fol. 2b which has twelve lines. Oriental square character with a tendency to cursiveness. [Adler.]

## 137

Part of a code or theological treatise in vulgar Jewish-Arabic.

The first line of fol. 1a is **המקלל שלו ו' חוב (חוב) שלוש ו'** which is the continuation of **ויש אומרין על הנשיא**. The sentence is not finished, and a new treatise in Arabic begins in the second line. The first few lines are as follows: **בסם אלה ארחמן אלחמר ללה אלמליך ללכול בעיזה אלמבתדי**. **חית לים אבתדי אבקי חית לים פנא אלנליל**. This preface continues till the end of 1b, but is not finished, as some leaves are missing between 1b and 2a. The latter begins with the following: **וכדי שהוד אלכתאב** **בקול דניאל וקאל כל דאירי ארעא תם ינבנא אן נעלם עלא כם קסים תנקסים אלנבויה ודיה תנקסים עלא ארבע אקסם**.

Fol. 2b ends with this sentence **כדליך דכול בני יש' אלא אשם אעלמהום**. The words **מא וניב** of fol. 2a of No. 136 complete this sentence.

For the description of the orthography see No. 136. In this fragment we see that the copyist was by no means consistent, for he

has here אלנבי. A very interesting spelling is אשם for السام  $\text{šam}$  = سعمون = سمعون. This is the only case where  $\text{š}$  is used after a short  $a$ .

Two parchment leaves, forming the outer sheet of a fascicle. Size  $5\frac{1}{2} \times 4\frac{1}{2}$  ins. ( $=14 \times 11.4$  cm.). Number of lines on each page ranges from eleven to fourteen. Oriental square character with a tendency to cursiveness.

These two leaves are to be inserted between fol. 1b and fol. 2a of No. 136, as 1a of this fragment is a continuation of 1b of the other, and 2a of that fragment continues 2b of this one. [Adler.]

### 138

Part of a code, in Jewish-Arabic, dealing with the laws of marriage and divorce. It may belong to Hefes b. Yasliah's Book of Precepts.

A piece of parchment, badly damaged, measuring  $5\frac{3}{16} \times 4\frac{1}{2}$  ins. ( $=13.2 \times 11.4$  cm.). There were at least eighteen lines to a page. Square character with a tendency to cursiveness. [Amram.]

### 139

Part of a Jewish-Arabic compendium of talmudic laws, probably by Samuel b. Hofni. The two leaves are not continuous.

Fol. 1 deals with the laws of inheritance, while fol. 1 treats of the laws appertaining to a hireling. The leaves that followed, as stated in the last line of fol. 2b, were devoted to the laws of buying and selling.

Two paper leaves, slightly damaged, forming the outer sheet of a fascicle. Size  $8\frac{1}{8} \times 5\frac{11}{16}$  ins. ( $=20.6 \times 14.4$  cm.). Number of lines ranges from fourteen to fifteen to a page. There is some writing on the margin, lengthwise. Oriental square character with a tendency to cursiveness. [U. P.]

### 140

Part of a compendium of the laws of Sabbath, which seems to be in the same style as the *Halakot Pesuḥot*. It follows the arrangement of the Talmud, but not as closely as Al-Fasi.

These two leaves cover the following parts of tractate Shabbat: Fol. 1 = 62a (טבעת שיש עליה חותם) to 66b (בין שיש לין גנינועים על אביו נוטל) (רצועה).

Some leaves are missing between fol. 1b and 2a.

Fol. 2=73a (זורה... מרקד) to 74b (האי מאן דעביד חביתא). This is followed by a long explanation.

Two parchment leaves, damaged, forming the outer sheet of a fascicle. Size  $7\frac{3}{4} \times 5\frac{1}{2}$  ins. (=19.7×14.9 cm.). Number of lines ranges from twenty-six to twenty-nine to a page. Square character with slight tendency to cursiveness. [U. P.]

### 141

Probably part of a treatise, in Jewish-Arabic, on the laws of *Terefah*.

The author explains the various accidents which render an animal unfit for consumption, and enumerates the eighteen cases mentioned in Hullin 3.1. He states that he previously explained the principle underlying the laws of that Mishnah (פסוקא קד קדמא תפסירה, verso l.2).

One paper leaf measuring  $4\frac{2}{16} \times 5\frac{11}{16}$  ins. (=10.6×14.4 cm.). There are eleven lines to a page. Square character with a slight tendency to cursiveness. [U. P.]

### 142

Part of a treatise, in Jewish-Arabic, on the laws of property.

The author discusses the selling of cattle, as well as the rights of a married woman to sell her property.

Hefes b. Yasliah, Samuel b. Hofni, Hai may be mentioned as the probable authors of this code.

A piece of parchment, badly damaged, measuring  $5\frac{1}{2} \times 5\frac{1}{2}$  ins. (=14×14cm.). About nineteen lines to a page have been preserved. Square character with a tendency to cursiveness. [Amram.]

### 143

Part of *Tur Yorch De'ah* by Jacob b. Asher. *Hilkot Keri'ah*.

Recto begins with רכב שמה (340.5), and verso ends with והרכב"ם כתב כל שלשים יום (340.18).

This fragment belongs to the same codex as No. 144.

One parchment leaf, badly damaged and faded, measuring  $7\frac{9}{16} \times 5\frac{1}{4}$  ins. (=19.2×14.6 cm.). Twenty-eight lines have been preserved to a page, but the lower part is torn off. Cursive rabbinic character. [Amram.]



# 144

Part of *Ṭur Yoreh De'ah* by Jacob b. Asher. *Ḥilkot Ḳeburah*.

Recto begins with מעה או שאר דברים (356), and verso ends with 361.

This fragment belongs to the same codex as No. 143.

One parchment leaf, badly damaged and faded, measuring  $8 \times 5\frac{1}{4}$  ins. ( $= 20 \times 31.4$  cm.). About twenty-eight lines have been preserved to a page. Cursive rabbinic character. [Amram.]

# 145

Brief extracts from *Shulḥan 'Aruk, Oraḥ Ḥayyim, Ḥilkot Ḳeri'at Shema*.

It is headed דיני קריאת שמע, and has נוהגין ליתן ידיהם על פניהם, and many other short sentences. The last line is צריך להשמיע לאזניו מה שמוציא בפיו.

One paper leaf, measuring  $6\frac{2}{3} \times 4$  ins. ( $= 16.8 \times 10.1$  cm.). Recto has fifteen lines, while verso is blank. Modern Ashkenazic cursive character, except the heading which is in a bold square hand. [Amram.]

# 146

Part of a commentary on *Shulḥan 'Aruk, Oraḥ Ḥayyim*.

Fol. 1 deals with paragraphs 307, 308. Some leaves are missing between fol. 1b and 2a. Fol. 2 contains notes on paragraphs 282–284. The appearance of the fragment does not allow the changing of the order of the leaves.

Two paper leaves, badly torn and faded, forming the outer sheet of a fascicle. Size  $6\frac{2}{3} \times 4\frac{1}{2}$  ins. ( $= 16.8 \times 11.4$  cm.). There are eighteen lines to a page. Italian character. [Amram.]

# 147

It seems to be part of a treatise, in Jewish-Arabic, dealing with the prohibitions against robbery and oppression.

Recto and the first part of verso treat of the laws of inheritance, and it is assumed that Phinehas inherited his sepulchre from his wife. This is, however, a digression, as the author remarks: 'נניע אלען אל': דכר אלמטאלם. 'Let us return now to the treatment of wrongs.' Mention is made of פסר אלעבא זכ' לב'.

One paper leaf, slightly damaged, measuring  $8 \times 5\frac{3}{4}$  ins. ( $=20.3 \times 14.6$  cm.). There are fourteen lines to a page. Square character with a tendency to cursiveness. [Amram.]

## 148

Recto is part of a table of contents of an unknown code in Jewish-Arabic. This book had at least twenty-two chapters. This page begins with the mention of the seventh chapter, and the words **אלבאב אלכ"ב** are legible towards the end. Chapter 7 dealt with silver... light; chapter 11 with milk and cheese; chapter 13 with a man's wife; chapter 17 with prayer; chapter 18 with writing; chapter 19 with building; chapter 20 with women... heirs.

Verso seems to be the preface of the book; it begins with a quotation from Ben Sira **קאל אבן סיר[א] רח' אללה**.

One paper leaf, badly damaged and torn, measuring  $8\frac{1}{2} \times 4\frac{3}{8}$  ins. ( $=20.6 \times 11$  cm.). There must have been more than twenty lines to a page. Square character with a distinct tendency to cursiveness [Amram.]

## 149

Part of a code, in Jewish-Arabic, treating of the laws of the scriptural readings and the ritual of the festivals. This fragment deals with Tabernacles and Hanukkah.

One paper leaf, measuring  $7\frac{3}{8} \times 4$  ins. ( $=18.7 \times 10.1$  in.). There are seventeen lines to a page. Square character with a strong tendency to cursiveness. [Amram.]

## 150

Part of a code, in Jewish-Arabic, on Jewish ritual. This seems to be the beginning of the code, as recto had been blank, but later some one wrote down in bold square character: **אשר הכתרנשות בעולם רמתקדשים**. Verso which has twelve lines is headed **קדום לילה אלפסח**, and the writer proceeds to give the laws when the Seder occurs on Friday night. The first portion of the Kiddush is quoted.

One paper leaf, measuring  $6\frac{3}{4} \times 4\frac{5}{8}$  ins. ( $=17.1 \times 11.7$  cm.). Square character with a tendency to cursiveness. [Amram.]

## 151

Part of a code, in Jewish Arabic, on Jewish ritual.

Recto contains laws concerning the various prayers, some of which are quoted in full. Then follows a chapter headed **וּמִצְוֹת אֱלֹהִים** (the ritual obligations in connection with food). Verso ends with the beginning of Grace after Meal, which was probably given at full length. The Hebrew quotations are vocalized, though not quite accurately. These prayers offer many important variants.

Is it part of Sa'adya's *Siddur*?

One parchment leaf, measuring  $5\frac{1}{2} \times 4\frac{1}{8}$  ins. ( $=14 \times 10.4$  cm.). Recto has seventeen lines, while verso has eighteen. Square character. [Amram.]

## 152

Part of a treatise, in Jewish-Arabic, giving detailed directions for the performance of marriage and betrothal ceremonies. The blessings as well as the Ketubah seem to have been given in full.

Recto begins with the latter part of the Ketubah **בֵּין בְּמִקְרָקֵי** **הָרָא אֶלְתִּרְתִּיב עָקֵר אֶלְקִירוֹשִׁין וְאִמָּא** (ובין ממטלטלי תרתוב ברכת אירוןסין] פהו אן ימלא כא[ס]א מן אלכמר... אן אכנן.

It is to be noted that, as is usual in this kind of literature, **תרתוב** stands for **סדר**.

One paper leaf, slightly torn and faded, measuring  $7\frac{5}{8} \times 5\frac{1}{8}$  ins. ( $=18.7 \times 13$  cm.). Number of lines ranges from seventeen to eighteen to a page. Square character with a tendency to cursiveness. [Amram.]

## 153

Digressive discussions, in Jewish-Arabic, of talmudic subjects.

Recto deals with the apostasy of Flisha b. Abuyah, and various opinions from rabbinic literature are quoted. The author gives his sources (as **וְהִנֵּה פִי אֶלְתִּלְמוּד בְּסוֹכָה פֶּרֶק לֹוֶלֶב וְעִרְבָה**). He then deviates from his subject, and explains the initials **פִּיר קֶשֶׁב**.

One paper leaf, measuring  $9\frac{1}{8} \times 6$  ins. ( $=23.1 \times 15.2$  cm.). Number of lines to a page is twenty-two. Oriental cursive character. [U.P.]

## 154

A lengthy discourse on the talmudic principle of *Bererah*. The writer discusses the principle from all points of view, and cites many talmudic passages, as well as *דברי הגאונים* (verso, column 2, l. 14) and *רבני הצרפתיים* (*ibid.*, l. 15).

One paper leaf, measuring  $12\frac{1}{4} \times 8\frac{1}{2}$  ins. ( $= 31.1 \times 21.6$  cm.). There are two columns to a page, each column having thirty-three lines. Italian cursive character. [Amram.]

## 155

Part of a gaonic responsum on calendation. It is identical with responsum 1 ascribed to R. Hai in *תשובות הגאונים*, ed. Lyck, 1864.

Our fragment begins with *הרי הוא מחוסר ולפי מה שקובעין את השנה* (Lyck, p. 4, l. 17) and ends with *לך אמור להם שובו לכם* (Lyck, p. 4, l. 17) and ends with *לך אמור להם שובו לכם* (*ibid.*, p. 6, l. 3).

On the whole our fragment agrees essentially with the printed text. There are, however, a few variants which are mostly scribal errors either in this fragment or in the manuscript used for that edition. Instead of *וציום עבור השנה לצורך* (Lyck, p. 4, l. 20) this fragment has *שסבור וכו'* which is obviously a scribal error. On the other hand, our fragment offers a better reading for *וכך הופיעו הנביאים את* (Lyck, p. 4, l. 4), as it has *הנהינו*. The spelling *קאבם* of our fragment is preferable to *קאבת* of the printed edition, p. 4, l. 3. See also *ibid.*, note 4, p. 4. The following variant is interesting. The printed text, p. 4, l. 16, has *למקום שמונין חדשים ואין מכירין שבועות*, and our fragment adds *כמו הפרסיים*.

Some words of our fragment are provided with Tiberian vowels, but the vocalization is not always correct; thus *קנין*.

Eight paper leaves, measuring  $7\frac{7}{8} \times 5\frac{11}{16}$  ins. ( $= 20 \times 14.4$  cm). Number of lines on each page ranges from fifteen to sixteen. Oriental square character with a strong tendency to cursiveness. These eight leaves form a fascicle and are fastened together by a string. [Adler.]

## 156

Part of a collection of responsa by R. Hai Gaon.

Fol. 1a is almost entirely faded, but the names *ישעיה בן יהודה*, *ע"אש בר משה*, *מבורך בר עמרם* are still visible. This page seems to have

had two short responsa. It has a complete responsum, dealing with the question whether locusts belong to the class of forbidden food, and the beginning of another. Some leaves are missing between fol. 1b and 2a. Fol. 2 contains the greater part of two responsa.

Published by L. Ginzberg, *Geonica*, II, pp. 43-47.

Two paper leaves, forming the outer sheet of a fascicle, badly damaged and faded. Size  $7 \times 5\frac{5}{16}$  ins. ( $= 17.8 \times 13.5$  cm.). Number of lines ranges from eighteen to twenty to a page. [Amram.]

## 157

Part of the collection of responsa known as *שו"ת מן השכנים* by Jacob ha-Levi of Corbeil or Marvege.

Each responsum has the question, which begins *ועוד שאלתי*, and the answer beginning *והשיבו*. All the responsa are marked by letters of the alphabet on the margin. From these letters we infer that there was a much larger collection than the one given at the end of the Leghorn edition of *שו"ת הרשב"י* (1818). For the latter contains only ninety-six responsa, while this fragment has a responsum numbered 406 (see also below, No. 158).

Fol. 1a begins with the last few lines of responsum 360 ( $= 49$  of printed edition); responsum 361 ( $= ibid.$ , 2) deals with the benediction on the phylacteries. The question is whether the law is according to Al-Fasi or the Geonim. The reply is torn off. Fol. 1b has the end of responsum 364 ( $= ibid.$ , 51). Responsum 365 ( $= ibid.$ , 39) is about those who eat during the interval between the afternoon and evening prayers. Is it a sin, as is the opinion of R. Jacob, or not? The reply is torn off. Some leaves are missing between fol. 1b and 2a. The latter has the end of responsum 403. The writer remarks that when the answer reached them they rejoiced greatly. Responsum 404 deals with the ablution on the Day of Atonement. Responsum 405 is about the reason why it is necessary to blow *תשר"ת* on the shofar at the termination of the Day of Atonement. Fol. 2b continues this question, and responsum 406 deals with the blowing of the shofar at the conclusion of the prayers on New Year. The manuscript breaks off in the middle of the answer.

Although the writing material is different, this fragment seems to belong to the same codex as No. 158.

I am indebted to Prof. Louis Ginzberg for drawing my attention to the printed edition.

One and a half paper leaves, badly mutilated, forming the outer sheet of a fascicle. Size  $10\frac{13}{16} \times 7\frac{7}{8}$  ins. ( $=27.4 \times 20$  cm.). Number of lines to a page of fol. 1, of which only a half has been preserved, is ten, while fol. 2 has twenty-three lines to a page. Square character with a distinct tendency to cursiveness. [Adler.]

## 158

Part of the collection of responsa known as שו"ת מן השמים by Jacob ha-Levi of Corbeil or Marvege.

All responsa are marked by letters of the alphabet.

Recto begins with the last few lines of responsum 414 (=Leghorn edition, 62), which deals with the question whether it is necessary to take out the lungs of a slaughtered animal in order to examine them. Responsum 415 (= *ibid.*, 60) deals with the statement of the Talmud והוא רסבך (Hullin 48a). The question is whether the perforated lung has to be grown together with the flesh or bone. The answer is indirect, but the writer concludes that if the lung is not grown together with the flesh, the meat is unfit. Responsum 416 (= *ibid.* 21) is about a certain mode of plucking the feathers and the salting of poultry. Responsum 417 (= *ibid.*, 19) deals with the custom to read the Shema' of the evening prayer before the stars appear. Verso, continues this question. Responsum 418 (= *ibid.*, 23) is about the question whether it is permitted to recite the Thirteen Attributes during the Ten Days of Penitence, if less than ten men are present. The decision is against it. Responsum 419 (= *ibid.*, 25) deals with the question whether it is appropriate to read the Kiddush and Haddalah in synagogue, for in some places it is customary not to do so. The fragment breaks off in the middle of the answer which is in the affirmative.

This fragment, despite the different writing material, seems to belong to the same codex as No. 157. Judging from the numbers, it is evident that not many leaves are missing between Nos. 157 and 158.

One parchment leaf, badly damaged, measuring  $10\frac{13}{16} \times 7\frac{7}{8}$  ins. ( $=27.4 \times 20$  cm.). Number of lines to a page is twenty-two. Square character with a distinct tendency to cursiveness. [Adler.]

Recto has an inquiry, in Jewish-Arabic, addressed to Abraham, together with his autograph responsum. He signs his name Abraham b. Moses, and he is undoubtedly Abraham the son of Maimonides, and the entire document is apparently an autograph. The inquiry consists of twenty-six lines, while the reply is written on the left-hand margin and has six lines. The inquiry is divided into three parts, the first and third of which end with **יורינו רבינו ושכרו כפול מן השמים**, while the second reads **...ושכרו כפול אמן**. The second has the mistake **ררבינו**. Reuben has a wife who owns half of a dwelling valued at six dinars; he pledged the dwelling to a creditor whom he owed eight dinars, and died. Should the widow pay the debt? If Reuben owned the other half of the same dwelling, and bequeathed it to some of his children, should the debt be paid from the half belonging to the widow, or from that belonging to the orphans? Should the laws of inheritance apply to the other children (the bequest having been made by the laws of the Gentiles)?

Verso was then used for copying down some poems. It has two columns, and number of lines to a column ranges from twenty-eight to thirty. Square character with a tendency to cursiveness.

Column 1 seems to be headed **[בש] מ' רחמ'**.

1 (col. 1, l. 1). A dirge, probably by Moses ibn Ezra or Ibn Gabirol, rhyming in **קל**-. The first line reads **מה הצרי מה תרחבי חבל**. The meter is Kamil.

2 (col. 2, l. 1). A short poem, rhyming in **לי**-. The first line seems to be **צורי חסריך מאר רבו עד מהנותם קצרו [מלי]** (Wertheimer, *Zakaron le-Rashonim u-Le-Aharonim*, p. 6a, where there are errors). The meter is Kamil.

3 (*ibid.*, l. 6). A poem by Judah ha-Levi beginning **יפה נוף** (Harkavy's edition, vol. I, p. 7; Brody's edition, vol. II, p. 167).

4 (*ibid.*, l. 16). A poem by Abraham ibn Ezra headed **אחר** and beginning **לאלהים כלתה נפשי** (Rosin's edition, vol. II, No. 17; see also Egers' edition, p. 187). The page ends with **כמל ואלחמר ללה חדרה נל נלאלה**.

One paper leaf, damaged and faded, measuring  $10\frac{2}{3} \times 7\frac{2}{3}$  ins. (= 27.6 × 20 cm.). [Sulzberger.]

## 160

A table of contents, in Jewish-Arabic, of a volume of various responsa. The first three lines of recto read: **מו פיה מסאיל כחירה**... **ל. אולהא אנובה מסאיל מן רבינו נסים**... **מותר ליהורר לירר מן הספינה**... Twelve responsa by R. Nissim seem to be enumerated. Then follows **ופיה איצא אנובה מסאיל מן קבל**... **עלי מן ימשי פי אלאוקה ואלאסואק**, and five more responsa are mentioned. The writing on verso is in the opposite direction, and gives headings of twenty-three subjects treated at full length in the responsa. The sources from which the statements of the headings are excerpted are given on the right-hand margin. Thus opposite **הלכות**... **שהקיפיהו של עבנאי**... **כ"ב מצינא** (the number **כ"ב** refers to the responsum). The ends of the lines are torn off.

This fragment belongs to the same codex as No. 161.

Two pieces of paper, torn and badly damaged, belonging to one leaf. When pieced together, they measure  $9 \times 5\frac{1}{8}$  ins. (=  $22.8 \times 13$  cm.). There must have been more than twenty-three lines to a page. Square character with a tendency to cursiveness. [Amram.]

## 161

Part of a collection of responsa.

Recto is in Hebrew, in square character with a tendency to cursiveness. L. 13 has the superscription: **אליב מנה למ"ר יהודה בן יוסף**... **פאכ** (?), and it deals with the laws of partnership.

On the margin are given the references to talmudic passages, and the peculiar spelling **שומה** and **פסחין** may be mentioned. Verso is in a Spanish cursive hand, and is written in the opposite direction. It is in Jewish-Arabic, and contains the end of a responsum which probably dealt with the laws of buying something from a Gentile before Passover. This is followed by a responsum treating of the case of a man who sold his dwelling.

This fragment belongs to the same codex as No. 160.

A piece of paper, damaged on all sides, and it is impossible to determine its original length. Its present size is  $5\frac{1}{16} \times 5\frac{3}{16}$  ins. (=  $12.9 \times 13.2$  cm.). Fifteen lines have been preserved on each side. [Amram.]



## 162

A responsum by Joseph b. Moses of Trani on Jesus. It is headed ב"א בשאלות תשובות כ"י מכמוהר"ר משה טראני זלה"ה סי' קע"ז, כתוב ח"ל, הא דשאל מר היכן אמרו בתלמוד תרי ישו הוו בס' יוהסין נבי' הושע בן פרחיה, כתב שגולד שנת נ' אלפים חרע"א, בימי נאי המלך הוא אלכסנדר, שנת רס"ט לבנין הבית.

Four paper leaves, the last two of which are blank, forming the end of a book. Size  $7\frac{1}{4} \times 5\frac{5}{16}$  ins. ( $=18.3 \times 13.4$  cm.). There are about twenty-two lines to a page, apart from marginal notes. Italian cursive character. The first word in every paragraph is in square hand. [Amram.]

## 163

Part of a discourse or repsonsum, in Jewish-Arabic, concerning the laws of sacrifices and ritual cleanness.

The writer quotes, apart from talmudic authorities, the פירוש הנאוונים.

One paper leaf, slightly damaged, measuring  $9\frac{1}{4} \times 7\frac{1}{8}$  ins. ( $=23.5 \times 18.1$  cm.). There are twenty lines to a page. Square character with a distinct tendency to cursiveness. [Amram.]

## 164

Part of a responsum, in Hebrew, concerning the laws of Passover

A piece of paper, badly damaged, the upper part being entirely torn off. Size  $5\frac{1}{8} \times 8\frac{7}{8}$  ins. ( $=13 \times 22.5$  cm.). On recto eleven lines have been preserved, though not all are legible. Verso is blank. Square character. [Amram.]

## 165

A lengthy responsum, in Hebrew, concerning the laws of usury.

Fol. 2b seems to have the writer's signature, which is, however, illegible.

Two paper leaves, measuring  $8\frac{3}{4} \times 6\frac{5}{8}$  ins. ( $=22.2 \times 16.8$  cm.). There are thirty-six lines to a page, except fol. 2b which has only sixteen, the rest of the page being blank. Late cursive character. [Amram.]

## 166

Part of collection of talmudic discourses, in Hebrew, probably belonging to the end of the eighteenth or beginning of the nineteenth century. One discourse ends on middle of fol. 1b. 2a begins with a discourse on **אמר רב תפילת נעילה פוטרת** (Yoma 88a); although fol. 2b is blank, this discourse does not end on 2a.

Two paper leaves, measuring  $8\frac{1}{4} \times 6\frac{7}{8}$  ins. ( $= 20.9 \times 17.4$  cm.). Number of lines ranges from thirty-nine to forty-three to a page. Fol. 1b has only twenty-three lines, the lower part being blank; 2b is blank. Cursive European character. [Amram.]

## A MANUSCRIPT MISCELLANY

BY H. BRODY, Prague

### *A. The Manuscript and its Contents.*

ABOUT ten years ago my friend Dr. Samuel Poznanski was good enough to send me for use a manuscript which was then in the possession of the Karaite Ne'eman in Eupatoria and to whom presumably it still belongs. The manuscript contains many poems and letters in prose and rhymed prose whose authors belong to different times and countries. In the beginning my interest centered mainly in a series of partly unedited, partly altogether unknown poems by Gabirol, Moses Ibn Ezra, and Judah ha-Levi; but gradually I found that the works of the other authors also deserve attention. On the basis of notes which I jotted down during my perusal of the manuscript I was enabled to draw up the following description, which is so couched as to give the scholar sufficient information about every single piece. The description, I venture to hope, will not suffer from the historical, biographical, and bibliographical data, which I thought fit to add to it.

There is not much to be said about the outward appearance of the paper manuscript in octavo. It belongs to the first half of the seventeenth century and comprises 168 leaves. Fols. א—' are numbered with Hebrew letters, while the following are provided with Arabic numerals: 11—21, 33—74, 74a, 74 b, 75—99; the rest of the manuscript, through the fault of the binder, fell into such confusion that, for the purpose of description, I was forced

to adopt a new pagination for the leaves 100—178, and this pagination is the only one used in my notes. The materials in each of the following parts of the manuscript are closely connected: Fol. א—21, 33—44a, 49—80, 84—99, 101—104a, 106—113, 114—119, 120—133, 134—135, 136—137, 138—139, 140a, 142—149a, 153—155, 157b—158, 162—178a. To make the description more clear and distinct I have divided it, in accordance with the contents, into twenty-eight groups, which are designated I—XXVIII.

Fol. 44b—48b, 81a—83b, 141, 149b—152b, 156a—157a, 159a,—160b, have been omitted from this description. Fol. 100, 105a, and 161, contain notes by a more recent hand which are without value and difficult to read or altogether illegible. On fol. 44a is found the name of a former owner שלי הצ' שמואל בהר"פ נאמן.

After these prefatory remarks let us proceed to indicate the contents of the manuscript.

I. Fol. אא—בה: מרורות הזמן, Abraham Bedarshi's חרב המתהפכת with both concluding verses, which, designated as סימן, indicate the number of verses in the poem. The antecedent verses (מביט יאור) found in the edition of G. I. Polak (appendix to חותם תכנית, Amsterdam 1865) are wanting here.

II. Fol. בה—11a: שיר שחבר הנבון הר' סעדי' לוננו, a poem in imitation of Bedarshi's חרב המתהפכת, likewise consisting of 248 verses. Beginning: ברן יחר צבא כוכבי; at the end two verses (not designated as סימן); חמים דעים etc.

III. Fol. 11a—15a: correspondence between Solomon Ibn Labi and Joseph Ibn Yahya (the parts attributed to Ibn Labi have been composed by Solomon da-Piera;

comp. my *Beitraege zu Sal. da-Piera's Leben und Wirken*, Berlin 1893, p. 10, n. 1). The correspondence consists of the following parts:

a) מנחה שלוחה לחכם מאישטרו יוסף ׳ן יחיא (the superscription quoted by Steinschneider, *Hebr. Bibl.*, XV, 55, notes the following: בשם הר׳ שלמה ׳ן לביא ו״ל עשאו המחבר ז״ל; the מחבר is da-Piera), beginning: אם כל שמי כוכבי זבול נדרו, thirty verses together with the acrostic quoted by Steinschneider, *l. c.*

b) ה' אל שלמה בחלום, ויאחר תשובתו ושלחתי לו שיר, three verses.

c) וגם הוא יצא יצא לקראתי כי לא יכול להתעלם עוד ושלח לי מעט צרי מומרת ומירותיו וכה אמר, three verses, beginning: אשר אתו חלום משל ידמה.

d) ואחר יצא את העיר רודף (!) ואני נפקחו (עיני?) והגדלתי והוספתי אחריו שפתי רננות ואערוך לפניו אשכר כדבורות רעיוני; ותשורות שורות אשר שם בפי ובלבבי וכה דברתי אל לבי; then follows a poem consisting of 42 verses, beginning: חדשות לבקרים על אדמות, preceded by the following two verses as סימן:

לְבָבִי גִיל יוֹסֵף	בְּהִתְדַּעֵי יוֹסֵף
וְחִיל שִׁירִי יִצְבִּיא	פָּרִי דַעֲוֵי יוֹסֵף
צָעִיר יָמִים עוֹלָל	קָקָה שִׁי שִׁיר מְלָל
לֶךְ אָמַר לְבִי <sup>2</sup> .	לְהוֹדוֹת וּלְהַלֵּל

(The last word, an allusion to the name of the addresser—Labi — yields at the same time, in its numerical value (42), the number of verses in the poem.)

e) עוד לו על אשר הכינותי השירים הנז' ימים מספר טרם בואו, the following 2 verses:

<sup>1</sup> MS. ברהודעו; comp. Gen. 45.1.

<sup>2</sup> The manuscript is unvocalized throughout; I have added the vowels in this piece and also in the pieces that follow.

כִּלְמַעֲנֵי הָעֵת בָּאוּ      לְשֹׁבֵר בְּרִשִׁיר בֵּיתָה יוֹסֵף<sup>3</sup>  
שִׁיר הַתְּקִינוּ וַיְכִינוּ      אֶת־הַמִּנְחָה עַד־בּוֹא יוֹסֵף<sup>4</sup>.

f) ויהי כהשמע דברי אלה לפני החכם הנז' אנכי העירותיו f) ויתעורר ולא יכול להתאפק יוסף מהתרפק על דודי המתדפקים על דל שפתיו לשמוע (בקולו) [r. בקול] מדבר אליו ויקץ כישן יוסף ויאסוף כחול צבא משליו יחד יבואו גרודיו ויתן ביד עבדיו ארוחת רגניו ותשורות חירותיו ויביאו לי מנה אחת אפים כמתנת ידי כי רבה. היא מה יקרו דבריה מאלפי זהב ומה עצמו ראשיהם הנה הנס. This superscription is followed by a) two introductory verses, beginning ימים לשלמה עול ימים; b) a poem beginning מוחסר יצין זרעים אחרי מות ממחצב, 41 verses (one verse has thus been dropped); c) the סימן for the number of verses, beg. ממחצב (42—בלי rhyming word) הר אור וצר.

g) Without superscription: כאור שמש אשר על חוג מרומות, again 42 verses, the סימן following begins thus כנלכד בקרוב אל יד אדוניו; the reply of Ibn Labi.

h) עור לו, i. e. Ibn Labi to Ibn Yahya:

בְּשׁוּרֵי מַחֲזֵה שִׁירְךָ כְּרוּבִי      אֲנִי רוּחַ וְלֵב לֹא נִשְׁאָרוּבִי  
וַעֲתָ אֶשָּׂא לְךָ עֵינֵי וְלִבִּי      תַּחֲיִי רוּחִי וְחֵסֶלְבִּי בְּקִרְבִּי<sup>5</sup>.

IV. Fol. 15a—20a: Poems by Solomon da-Piera, as follows:

1. שלחתי לאח החכם הר' משה גבאי כשהסכים לשוב לביתו. 2. לארץ ישמעאל comp. Steinschneider, *Hebr. Bibl.*, XVI, 86. Next a short poem of 14 verses, beginning זמן לנהי והי פתח שער; then follow two introductory verses:

יְהַלְלִפִּי לֶךְ שִׁפְתֵי רִנָּנוֹת<sup>6</sup>      בְּמִסְפַּר מַהֲלָל אֶל מַעֲרֻבוֹת<sup>7</sup>  
יְדִידִי כֵן אֶבְרָכְךָ בְּחַיִּי<sup>8</sup>      בְּקוֹל זְמֶרָה וְשִׁיר מֵאָה בְּרָכוֹת

<sup>3</sup> Comp. Gen. 41.57 and 43.24.

<sup>4</sup> Gen. 43.25.

<sup>5</sup> Ps. 39.4.

<sup>6</sup> Comp. Ps. 63.6.

<sup>7</sup> The hundred benedictions which are to be recited daily (Menahot 43b).

<sup>8</sup> Ps. 63.5; MS. אברככה

This would imply that the laudatory poem beginning **מחח הפצח** originally numbered 100 verses, but now it contains only 96, four are wanting. The **סימן** of three lines begins with the words **המשים שערי בינה חסרים**.

2. **לא' מן החברים הנברר להיות עד נאמן בקהל פלוני**, a sharply pointed epigram of the kind often met in da-Piera's writings (comp. my above quoted *Beitraege*, p. 14); it reads:

**יָדִיד מִהַסּוֹר מְתִי אִמֶּן נִתְּנָה      לְעֵד נֶאֱמָן בְּתוֹךְ קָהָל וְעֵדָה<sup>9</sup>**  
**יָמוֹת עוֹלָם זָכַר כִּי בֶן יִקְיָמוֹן      לְעֵד הַגָּל וְעֵדָה הַמַּצְבָּה<sup>10</sup>.**

3. **וכתבתי לשלם המעולה הר' פלו' קבל פני בחרוים מספרם**. כ"ה **לאשר לא כתבתי לו רברים נחומים בעבור עליו סופת (הפרוד)** **לבי**: Beginning: **הן פכות** [הומן ונשתנו עליו סדריו ואען ואומר **סימן**], 9 introductory verses, then the **סימן**, 9 introductory verses, then the **סימן**, 5 verses, whereupon follows the laudatory poem proper consisting of 90 verses, beg. **ביום אפן**. **זמן חלק חבלים**. The same poem (up to l. 3 of the introductory verses) occurs also fol. 104a with the same superscription **קבל פני** (for **קבל עלי**), otherwise only slight variations), in which the addressee, **בנבנשח בן ויראל**, is named.

4. **לו הריו<sup>11</sup> בקצה יאור מצרים**, 33 verses without superscription and the following **סימן**:

**נִטְעַי אֶהְבִּינוּ כְּצִיץ שָׁרִי      צִמְחוּ וְהָיָה הַנִּדּוֹד מִגָּל**  
**אֵיךְ נִשְׁאָרוּ שְׁרָשֵׁי יִדְיוֹתָהָ      תוֹךְ מַחֲנוֹת רוּחִי וְעֵד הַגָּל<sup>12</sup>.**

According to Steinschneider, *Hebr. Bibl.*, XV, 78, it was probably addressed to Vidal ibn Labi.

V. Fol. 21a: **בלשון תלמוד (!) בעל התוספות** **תשר"ק**, the well-known prayer of R. Ephraim of Bonn

<sup>9</sup> Prov. 5.14.

<sup>11</sup> MS. הרִיב.

<sup>10</sup> Comp. Deut. 32.7; Gen. 31.52.

<sup>12</sup> Gen. *ibid.*

(תא שמע מרי עלמא צלותא), breaks off fol. 22b at the words מדויל (מדויר. ms.) ידיה לישתלים בניריה ניראה.

VI. Fol. 33a: להר' משה נ' עזרא ז"ל. Beginning אני גבר יגון פרוד דחפו, 29 verses. Comp. Appendix *sub* II, 1.

VII. Fol. 33b—36b: להר' יאודה הלוי ז"ל, featuring the following poems:

1. לא מתמול, Diwan<sup>13</sup> I, p. 1, No. 1. Variants: l. 4 נקרא for עד מרומים; l. 8 מפיו for מפי; l. 10 במרומים for מפי; l. 17 להך מעט for יתן לך.

2. לך השר, Diwan I, p. 107, No. 74. Variants: l. 4 קראוני for קראני; l. 19 דלת for פיה; l. 25 קראני for קראני; l. 26 נחתם for נסתם; l. 27—30 as a separate poem with the superscription חטאות for חטאות; l. 28 חטאות for חטאות.

3. עמוד כמעט, Diwan I, p. 65, No. 49. Variants: l. 3 תשאל צרי פה for תשאל צרי פוך חללים; l. 4 תשאל for תשאל; l. 5 לחללים; l. 6 ולרפוי... תחזיק for וכל רפאי... מחזיק; l. 13 חצך for עינך; l. 11 בנדי for בנך; l. 10 רפה for רפא; l. 14 מרצוניך for מרצוניך; l. 14 מותי... אפך for מותך... אינך(?); l. 16 ותתנאה for ותתנאה; l. 20 יהיו for יהיו; l. 21 לא for לא; l. 26 מכליאות for מכליאות; l. 30 לו שבאים עם סבאים for לך שבאים עם שבאים; l. 26 מכליאות for מכליאות; l. 31 מכליאות for מכליאות; l. 34 מרשא (marked as erroneous by a point placed above it) for משרה; l. 38 משרה for משרה; l. 51 ירד for ינאה; l. 50 שמך for שמשך; l. 43 כנשם for ונשם; l. 51 ותתפאר for ויתפאר.

4. בלבי סוד, Diwan I, p. 3, No. 3. Variants: l. 2 ארימנו for ארימנו; l. 3 יקרא... קריאו for קריאו... אקרא; l. 5 נדל... גלעד... נשאו; l. 6 מחנה לך for לך למחנה; l. 7 נשיאו; l. 8 ידירותך for יהי ביתך; l. 7 לבבך for לבבך; l. 7 נשיאו.

5. לך מעטה, Diwan II, p. 273, No. 52. Variants: l. 1 ככל for ככל; l. 3 בשפתותיו for בכנפותיו.

<sup>13</sup> Where no editor is mentioned the reference is to my edition of the Diwan.



6. יונת רחוקים, Diwan (Luzzatto) 2b, No. 6. Variants:  
 l. 5 אהלי... קונך... ופנה... אהלך... קנך... אהלך... ופני...; l. 6 בעדו  
 for בערך; l. 7 מעלך for פעלך; l. 8 תדאיבי for תשיבי; l. 11  
 באף... החריבי for באך (!)... החריבי.

7. שובי יחידה, Diwan (Luzzatto) 2a, No. 5. Variants:  
 l. 2 סביב for תמיד; l. 4 עדי for אלי.

8. הרף בונה

9. ירד הדור

10. ידידי הזמן חודש

} comp. Appendix *sub* III, 1-3.

11. כבר הלבישך, Diwan I, p. 98, No. 69. Variants:  
 l. 3-4 wanting; l. 6 חין for חן; l. 9-10 wanting; l. 12  
 הכחירו (or הפחירו?) for להחירו; l. 15 לבבם for לבבות; l. 16  
 יכולו for יוכלו לעמוד; l. 17 שמי for שמו; l. 20 ורוב for ובו  
 עמד.

12. הוי הלומדים, Diwan, II p. 216, No. 3. Variants:  
 l. 2 קראו for אל הם קראו; l. 3 חכמה for החכמה.

13. יונה תקנן, Diwan, I p. 164, No. 110. Variants:  
 l. 2 על אמריה for לאמריה; l. 4 כמקרה for כמקרה; l. 8 עלי  
 for על; l. 9 ימים for ימי; l. 11 קצו for קצצו; l. 12 מיום for  
 ימים; l. 13 עברי for עברים; l. 21 נדיבתי for נדיבת ה'; l. 24  
 סתריה for סדריה; l. 29 ובה חכמה for והחכמה; l. 33 דומם for  
 שומם; l. 34 תשעשע for ישעשע; l. 37 עטה for עטי; l. 49 ערכו  
 for ערכה; l. 50 is followed by a line wanting in the editions:  
 גם לא אאוה הון עפריה; l. 52 אכן for לא אחמוד צורת עפריה  
 ואני; as l. 69-70 the MS. has:

נפש אשר תקום ותתעורר      טרם פקודתה יעיריה  
 דרך תשובה שאלה מאל      יפתח אלהים לה שעריה.

VIII. Fol. 36b-39a: להר' שלמה ׳נ׳ גבירול ז"ל, con-  
 sisting of the following poems:

1. אמת לאיש }  
 2. תבורך יה. }

Comp. Appendix *sub* I, 1-2.

3. *שירי שלמה*, Dukes, I, p. 37, No. 24. Variants: l. 2 *ובמה רעי* for *אעלוך* and *ובמה*; l. 4 *תערוך* for *אעלוך*; l. 6 *נסתה* for *כסתה*; l. 8 *פוחתת* for *פתחה*; l. 9 *כבור* for *כבור*; l. 10 *מעלות שנבצרו* for *מעלתם נבצרו*; and *כרמי* for *בדמי*; l. 11 *למוכחי* for *למופתי* and *שמעו* for *שמעה*. l. 12 reads here *ואם האדמה לא תשימני לראש הן האדמה אהבי משכלת*; l. 13 *הורי* for *אם האדמה לא תשימני לראש הן האדמה אהבי משכלת* and *נפשי* for *יקר*; l. 15 *יקרה* for *היתה*; l. 16 *וירח* for *כצרי* and *אמריו* for *אמרי*; l. 17 *כצרי* for *כצבי*.

4. *עצמותי הה* }  
5. *ואהבתי ושברי שבלבי* } Comp. Appendix, sub I, 3—4.

6. *אחי תבל*, Sen. Sachs, *שיר השירים*, p. ח, No. ד. Variants: l. 4 *להשימה* for *להשימה*; l. 5 *אשר ירע לבבי* for *אשר ירע לבבי*; l. 6 *זחלה* for *זחלה*; l. 7 *והנני* for *והנני*; l. 10 *תהיה* for *תהיה*; l. 12 *נומה* for *יומה*; l. 14 *ידינו* for *ידינו*; l. 15 *ארצו* for *ואלקומה זמזומה* and *ואלגומה זמזומה (?)*; l. 16 *בעת חמה* for *מאש כלות* and *והאשכול* for *והשכל*; l. 19 *בחוץ* for *בחוץ*; l. 20 *נשאנו* for *נשאנו*; l. 21 *בבור* for *שחות* and *שפת* for *בחוץ*; l. 25 *שחות* for *שחות*.

7. *עוזב הגיון*, comp. Appendix sub I, 5.<sup>14</sup>

8. *יריעות שלמה*, came in here by mistake; the author is Judah ha-Levi. This poem was published in *Diwan* (Luzzatto), p. 16a, No. 41. Variant in l. 7 *שכניהם* for *עוניהם*.

9. *שמש כחתן*, Sachs in the above-mentioned work, No. ב. Variants: l. 3 *יהדר* for *יהדר*; l. 4 *ישתחוה* for *ישתחוה*.

IX. Fol. 39a—42b: the following pieces by Moses ibn Ezra (I have not noted the superscription, perhaps through inadvertence):

1. *תבל תני לבך*, Dukes, *Moses b. Ezra*, p. 100. Variants: l. 2 *מפני...ראה* for *מפני...ראה*; l. 4 *לפתאים* for *לפתאים*; l. 6 *תסתין* for *תסתין*; l. 10 *בעליך* for *בעליך*; l. 16

<sup>14</sup> Edited by H. Brody in *ha-Shiloh*, XXV, 557—58.

שמת... שבריך for כי כל... סתריך 1. 17; הרנתים for הרנתם  
תמותתך... יפיץ for תמתתך... יפיץ 1. 29; תנין for תנים 1. 19.

2. מה נעמו.

3. מעשי ה'.

4. מימי זמירות.

5. אור ישעך.

6. מהרו נא.

7. מה לאדוני.

8. רעיה תמה.

9. עין בלי נומה.

10. סוד לבי.

11. יושבי בטח.

12. גואלי איך.

} Comp. Appendix sub II, 2-12.

13. עין אשר מתשוקה ראבה כי מדמי לב דמעות שאבה  
the first verse of a poem, the rest is missing.

X. Fol. 42b: להר' יאודה הר"י בשבח הנביר עזרא, beg.  
כוכב משחקים ירד; comp. Appendix sub IV.

XI. Fol. 42b: להר' טדרוס הלוי ז"ל, an epigram con-  
sisting of two verses, beg. ה'ישראל צבי חן בתוך מקדש.

XII. Fol. 43a—44a: להראב"ע ז"ל, Abr. ibn Ezra's  
well-known lament נדוד הסיר אוני.

XIII. Fol. 44a: חידה, beg. יום אחד נדיב לאריסו אמר.

XIV. Fol. 49a—52a: Letters in rhymed prose by  
Solomon da-Piera<sup>15</sup>:

1. ברבות הטובה, consolatory epistle to one afflicted  
with sickness, signed אחיך פלו.

2. עת ספור אדם כי ימות, consolatory epistle of a father  
to his son (was it composed in the name of a client?),

<sup>15</sup> Edited by Deutsch in his description of MS. Vienna CVIII (then still in the possession of Hakam Reuben Baruk), *Literaturblatt des Orients* 1846, col. 565; for *ומזה* in verse 2 read *ומזה*.

<sup>16</sup> Deutsch, *loc. cit.*, quotes the superscriptions to Nos. 3, 4, 8, 10, 21, 22, 23, and 31, as well as the verses registered under Nos. 21 and 22. I cannot discuss here the very essential variants.

end: אֵלִידִים יִחַנֵּךְ בְּנֵי חָן וְשָׁכַל טוֹב וְרוּחַ דַּעַת עֲלֶיךָ מִמְרוֹם יַעֲרָה: ממכון שבחו כנפש אבִיךָ.

3. על ארון כל הארץ, exhortation to a husband who neglects his wife, end: כִּנְפֶשְׁךָ וְנַפְשׁ בְּאַהֲבַתְךָ שׁוֹמֵר אֲמוּנִים.

4. כנפשך..., letter, end: יָחִיד וְרַבִּים הִלְכָה כְּרַבִּים.

5. יורדי הים אדירים משבריו, to a community (?) in which disputes prevail, end: כִּרְצוֹנֵכֶם וְרָצוֹן אַחִיכֶם.

6. ברִיךְ דִּיהֶבֶךָ לָן, congratulations to a newly chosen rabbi, end: כִּנְפֶשְׁךָ הַמְּלָאָה לָךְ בְּרָכָה וְדַעַת, בְּכָל הָאָרֶץ זֹאת; מוֹדַעַת, וְנַפְשׁ בְּאַהֲבַתְךָ נֶאֱמָן, לְכָל אֲשֶׁר תַּחֲפוּץ מִזֶּמֶן; different from a letter with a similar beginning in a Prague manuscript, a description of which I intend to publish in the near future.

XV. Fol. 52b—80b: Various pieces by and to Abraham Bedarshi.

1. בתי הנפש, בית אל, also בתי הנפש, a Bakkashah otherwise known under the name בקשת הלמדן, beg.: לָךְ אֵלִי: בית אל מִים, with the concluding verses בנלגלי זבולי.

2. [a word wanting] אלדינו בהתפש תורת בנעריו ויתעלה העליה בעלילות צרינו וקמינו מהר למצוא חן במדבר נאזה דברים ערבים יפוצו לו ממעיני מכאובים ונעימים נפלו בחבלים מנוית הארי והדוב רדה הרבש ומעו פצעים הוציא מתוק; an elegy in rhymed prose. Comp. H. Gross, *Gallia Jud.*, p. 101; here the piece begins with the words: ואיככה כתנות ואור יקרות הלבשתני, the beginning seems to have been omitted by mistake.<sup>17</sup>

3. דון בנפוש רונ'ינו על שמועת פטירת הנבון והנעלה על הציקתהו רוח התלאות לזכור האבל הכבד שבר השוע האדיר עמוד הימני נר ישראל אדוננו זקנו דון אישתרונ דצנבאי

<sup>17</sup> The superscription, according to the Catalogue of Manuscripts in the British Museum, III, 247, reads as follows: חורת אלינו ויתעלה עליה [העלילה] אככה ואיככה אל אלים יי איר; the beginning of the elegy is: אככה ואיככה אל אלים יי איר.

נ"ע ובעבור כי השאיר אחריו אדוננו הנז' גבר חכם מסתפח בנחלתו רב על ביתו בחור מורם מעם כולל החמדות אוצר הסגולות אחינו חתנו ונכדו ר' אברהם בן כבוד החכם גבירנו דורנו ר' שלמיה ז"ל ונאסף נם הוא אל אביו אחר ימים מועטים ולא יכול אדוני לקונן בימים ההם על שניהם כי עודינו נער ובבא מקץ שנים שמועה הנכבד הנז' קרובם ואיש בריתם (העירעו) [העירהו] שפע המכאובות לשפוך מטרות ועץ ולהגיר אבני חרדה ויתן את קולו בבכי ויקונן עליו המליצה הזאת וכלל בקינותיו שני המכאובים הגדולים הנז' וכה נודו The poem consists of the following pieces: a) נודו (rhymed prose); b) אלי זנוח (?) תנים (50 verses); c) אטוש למרעים ולמליצים (3 verses, published in *Orient* 1851, p. 281 and 369; Appendix p. 24); d) ארץ אשר עפר (rhymed prose); e) לפיד פיד וכדורי יגון (rhymed prose); f) אי לך ארץ מרה (5 verses); g) שומן (rhymed prose); h) ואקום ואקרע את מעילי (2 verses); i) מיום שחרב (2 verses); j) בכור מות אהה מגל שלחתו (rhymed prose); k) ילדי יום תורתכם בינו (3 verses); l) אברהם (rhymed prose; done by נדרים). Thereupon follow these concluding verses.

בְּמִשְׁלֵשׁ מִשְׁכָּנוֹת רַעֲי פְּרָצוֹת<sup>18</sup>      זְמַן פְּרִץ וְהִבְעִיר אֵשׁ וְעֵצִים  
בְּלוֹחַ מִסְפְּדֵי שְׁמֵתִים וְנִקְרָא      בְּיִשְׂרָאֵל שָׁמוֹ בְּעַל־פְּרָצִים<sup>19</sup>

Comp. H. Gross, *Gallia Jud.*, p. 103 f., No. 12—14.

4. היה הגה משורר א' מפרובינצה שמו ר' שמואל השלוני  
בהיות בעיר הזאת<sup>20</sup> הארם הגדול ר' טודרוס הנז' ויהיה בינו ובין  
אדוני קצת שיר ומליצה ובתוכם כתופס מאהבה על קצת זריות היו  
בשירו כתב אליו זה השיר the poem consists of three parts:  
a) צבי שירך ימתק (15 verses); b) נזר מירי עם וציץ ממור (2 verses); c) בטח בדר חשכון (rhymed prose; ends  
(אברהם בר יצחק בדרשי).

<sup>18</sup> פְּרָצִים.

<sup>19</sup> II Sam. 5.20; I Chr. 14.11.

<sup>20</sup> Perpignan; comp. Gross, *Gallia Judaica*, pp. 460 and 655.

<sup>21</sup> In a poem not contained in our manuscript.

5. ויהי כראות השלוני תפישתו ואם היתה דרך אהבה ומחוברת להתנצלות כעס והתקצף ושלח אנרת כתובה פנים ואחור ממכתב *a*, a very comprehensive epistle consisting of the following 23 parts: *a*) ראו רמעה (11 verses); *b*) משרבו וחחי הלב (rhymed prose); *c*) שיר המאשר בהדר יפייך (3 verses); *d*) קום ברק (rhymed prose); *e*) חמתי אורה (2 verses); *f*) לחוות (4 verses); *g*) עז מאריות מדבש מתוק (rhymed prose); *h*) דעי אואל (rhymed prose); *i*) מאז שמעתיך אשפתותיו בחרת לחבוק (rhymed prose); *j*) חשבתך אמרתי כבר אכבדך (2 verses); *k*) זר מעשה שירך, אחר נסע דגל (2 verses); *l—n*) המשרת השירות (rhymed prose); *o*) הלילך הללת (2 verses); *p*) הלב הותל הטך (rhymed prose); *q*) עוברי בעמק הבכא (2 verses); *r*) חחת כאבים (rhymed prose); *s*) כפך מעלי הרחק (2 verses); *t*) ארבע נתיבות (rhymed prose); *u*) דברו עלי כובים (2 verses); *v*) הנכנסים לפרדס הזמרים (rhymed prose); *w*) אברהם בדרשי אל תאמר נער אנכי (rhymed prose; ends בר יצחק).

6. מצא בדרש ר' אלעזר האזובי שחר פניו במנחת שיר וענהו. ככבי אדמה נקראו חכמי לבב, 2 verses, beg.: אדוני וכתב לו comp. Gross, *l. c.*, p. 104.

7. ועוד לו (*i.e.* to the same, namely Eleazar Ezobi), a comprehensive epistle consisting of the following parts: *a*) כפרה סורה הזמן ילדי יום במצודה רעה (6 verses); *b*) פלאות (rhymed prose); *c*) לרעש תמורות הזמן (2 verses); *d*) נבנוני לחשים (rhymed prose); *e*) יתרון לבעל הלשון (2 verses); *f*) גבור יוצא לא בחנית (rhymed prose); *g*) אהכמיון לידוהי (2 verses); *h*) אמרו לשירים (2 verses); *i*) ראו אוזב כתמר קם (rhymed prose); *j*) אם לא תוקיר (rhymed prose); *k*) אשר יוצא (2 verses); *l*) אשכסף נפש ערכו (2 verses); *m*) לא יתן זהב (rhymed prose); *n*) עבד אחיך (2 verses); *o*) הואל חכם לבב (rhymed prose); *p*) נחתמו בצרור פשענו (2 verses); *q*) נלגל

בעת ההיא העתיק אהלו מן העיר הוא אל צור חצר<sup>22</sup> 8. בברדש שלח מתאונן על פרידת האדבים ועזיבת ההברה אל כצפור בודד beg.: החכם הנכבד דון ויראל שלמה יצ"ח זאת האגרת then concluding אברהם בדרשי בר יצחק ends, על גג verses: a) כוכב האמים (2 verses); b) צבי רעים (2 verses).

ויהי היום וישורר הרב עם גדולי חבורתו על משל ערבי. 10.  
המציאו משורר מן הערביים לשבח מלכו בשני עניינים בחרבו ובעטו  
ויתנבא (בם) [גם] אדני בתוכם והעתיק המשל בשני הבתים הראשונים  
והוסיף השלישית) לנלגל השבח על הרב ושלחם אליו וכה אמר  
beg.: <sup>23</sup>עין עטך בבכות נגידים יחדיו; according to this trans-  
mission of the text Bedarshi (אדוני) addressed these verses  
to Todros, but in consonance with the superscription in  
חומם הכנית (Appendix p. 26, where the verses are printed)  
Todros is the versifier and Bedarshi the recipient.

12. למה כבודך תעזוב, 2 verses, beg.:

<sup>22</sup> Deutsch, *Literaturblatt des Orients* for 1846, col. 564, reads: צחצח (חצר); I fail to understand both these readings.

<sup>23</sup> For בְּבִכּוֹת the edition has בְּבִנּוֹת, is found in both versions; read עֵין עֵיטָר

14. יודעי זמירות ברורות : beg., 2 verses, השביהו אדני.
15. רית יקר בנו תחלף : beg., 3 verses, ועוד.
16. שב אדני להעתיק המשל הנז' בחרוזות כל חיבותם יש בהם (thus again Bedarshi—a master in such artificialities—to Todros), 2 verses, beg.: (ברעוף) צפרנך (ברעוף) שרידים ירקדו [ברעוף].
17. היות : beg., 2 verses, עור להודיע למה בחר ברי"ש. ראשה בשם רב אבחרה רי"ש.
18. (Todros to Bedarshi, in keeping with the conclusion: הרימותי דבר אברם בדרשי; according to חותם תכנית as quoted above, Bedarshi to Todros).
19. לוי כלביא ויליד לביא : beg., וענהו אדני באות למד ואמר, Bedarshi to Todros also according to חותם תכנית quoted above, where the superscription (ל' ויוסף הרב באות ל') is intended to save us from the difficulty in which we are placed through the words לוי כלביא, which cannot refer to Bedarshi. The text לוי כלביא הוא ונור אריה in חותם תכנית is wrong, since every word is supposed to contain the letter ל.
20. לך לשון : beg., 2 verses, וענהו הרב באות ההיא ואמר. לאברהם למקנה end, מלהטת לשונות.
21. ונודמן שדברו לפני הרב על שרש כידורי אש יתמלטו ואמר הרב ששרשו ידר ואמר אדני ששרשו נדר ומצאתי במחברת שרש ידירותך נבירי : beg., 2 verses, רד"ק ששרשו נדר ושלח לרב אבחרה.
22. אחר שב אדני וראה במחברת השרשים מר' יונה נ' נאנח : beg., 2 verses, ששרשו ידר כדברי הרב ושב ושלח לרב שנים אלה. מראות צבי הוד כי תשוקתך.
23. ויהי כי הקיפו ימי השמחה ועת ישועות בערב הפסח שלח אדני אל הרב שיר נמרץ ומליצה מפורת הדשה הולך בדרך ההגדה כ"ד. p. 17, note 9, followed by a parody printed in (comp. I. Davidson, *Parody in Jewish Literature*, p. 17, note 9). The succession of the constituent parts in our manu-



script is as follows: *a*) (לרבי) [אל רב]; *b*) כמה יקר והוד; *c*) שירתו מכירך ברוך (סימן for the number of verses in the preceding poem wanting in editions); *d*) לא נעשה כפסח הזה; *e*) ואני על אחת כמה וכמה; יכול מראש חדש; the pieces מפורת and מליצה in the superscription means "rhymed prose", which is correct and not מפורת as in editions.

ועוד היה הולך בחברת הרב איש נכבד מאד מתוך לנפש. 24. נקשרה נפש אדני בנפשו דון שאול בן שבתי חכו ממתקים וכלו מחמדים בחיר רוזנים שאול: 2 verses, beg.: וזה אשר שלח אדני אליו, printed in משכיות כסף, p. כ"ה a. Saul is probably the same of whom Bedarshi says in הרב המתהפכת, l. 181: ובספרד: לשאול איש בריתי כליל המרה צבי השקי ועפרי.

יעדה=עדה הוד כוכב שבתי: 2 verses, beg.: עוד לו. 25. in חותם תכנית Appendix, p., 27.

פנינים לך וצופים בנינה: 2 verses, beg.: עוד לו. 26. printed in חותם תכנית, *ibid*.

עוד שלח לו אדני על שיר אחד אשר יסד הרב הגו' קראו. 27. =ראיתי שיר בלתיך נאלח: 2 verses, beg.: מנחת קנאות וכה אמר in חותם תכנית Appendix, p. 26. here again refers to Todros.

וזה אשר שלח אל הרב הנכבד אחרי הפרדו מן העיר. 28. אדם בעץ דעת בועת נגרשו: 2 verses, beg.: עורנו בברצלונה, after a Vienna manuscript communicated by J. Bergmann in *Monatsschr. f. Gesch. u. Wiss. d. Jud.*, 1898, p. 508, without statement as to whom it was addressed.

וזה אשר שלח אל הידיד הגו' בהפרדו ממנו לא הרחיק. 29. כבר... מאין מראות אלהים: 3 verses, beg.: ללכת (a word is missing, which is indicated in the manuscript by two points). The ידיד is Saul b. Sabbatai.

חברתך: 2 verses, beg.: וזה אשר שלח לו קרוב למלכותו. 30. רורי מתקה ולי ערבה; probably to Todros, but according to

פך, משכיות כס"ה, p. b, to Saul, in *Monatsschr.*, *ibid.*, without addressee (in both ed. שפרה for ערבה). This piece is followed by the note: הנה זה סוף מה שנתחדש לו מן השיר comp., however, below sub 32 ff.

31. וכבר עבר בגבולנו בחצר המלך הגדול אדוננו מלך ארגון. זקן אחד נכבד ורופא עם הגבירה דונה ברינגיידה שמו ר' יוסף; אלמרדי היה משורר גדול וכתב אליו ארני three verses, beg.: הרב המתהפכת. As to Joseph al-Meridi comp. מתיים מזמן נטשו l. 178—179.

32. עור, apparently to Joseph al-Meridi, but according to Pollak (חוטם תכנית Appendix, p. 25) to Todros ha-Levi: Gavison, who quotes the first four verses (עומר השכחה, p. c) קל"ב, does not name the author and only says that the verses are old (והם קדמונים). Neither Pollak nor Gavison offer a correct text, also the manuscript exhibits false readings, and so in deference to lovers of poetry and its forms, I make use of this opportunity to offer a corrected and revised text of this poem—a worthy specimen of its kind (P = Pollak; G = Gavison; MS. = our manuscript; errors in vocalization, numerous in P, are not recorded):

שֹׁשֶׁן בְּבִין חוֹהֶה וּמְלוֹחֶה <sup>24</sup>	מְהִיעֵטָה עֵתֶךְ <sup>25</sup> וּמְהִילוֹחֶה
צִיִּי <sup>26</sup> שִׁיחֶה חֶלֶה בְּצֶלֶצְחֶה <sup>27</sup>	הַסְתּוֹפֶה <sup>28</sup> שְׁנֵעֶר <sup>29</sup> בְּצֶלֶצְחֶה <sup>30</sup>
שֶׁם חֶכֶד בְּשִׁפְת <sup>31</sup> כְּפִיר חֶחֶה <sup>32</sup>	וְשִׁישׁ <sup>33</sup> זְמִיר תַּחֲשֵׁב כְּפִרְחֶה <sup>34</sup>
תּוֹרִיד <sup>35</sup> מְתִי נָאָה וּמִמְשִׁחֶה <sup>36</sup>	תְּנִבֶה עֲדִי תַת תְּאֵמִים שִׁחֶה <sup>37</sup>

<sup>24</sup> Job 30.4.

<sup>25</sup> P עתך.

<sup>26</sup> G צא.

<sup>27</sup> I Sam. 10.2; P and G בצל צחך.

<sup>28</sup> G הסתופה.

<sup>29</sup> P שוער, G שעה.

<sup>30</sup> "In the shadow of thy clear words"; P and G have in the first half of the verse בצל צחך, in the second בצלצחך.

<sup>31</sup> MS. כשפת.

<sup>32</sup> Comp. II Kings 19.28; Is. 37.29. P כפיר חכך. MS. כפירחתך.

<sup>33</sup> P שיש.

<sup>34</sup> כפיר חכך P.

<sup>35</sup> MS. תכבד.

<sup>36</sup> "The great ones" (Ez. 28.14); the suffix is due to the play upon words.

<sup>37</sup> "Thou raisest thyself so high that the twins (the constellation known by this name) stand lower than thou". G תתן תמים שחך, P תאומים.

יָקוֹב לְחֵי יָדַיִם בְּנִיחוּחָהָ<sup>38</sup>      נֶפֶשׁ<sup>39</sup> יָקָר תִּשָּׁב בְּנִיחוּחָהָ  
מִצּוּף וּמִן תִּבְחַר אֲבִיחָהָ      נֶפֶשׁ, וּמִחִיל<sup>40</sup> תִּאֲבָהָ<sup>41</sup> טִיחָהָ  
בְּרֹאוֹת<sup>42</sup> יָקוֹד שִׁירָה וְאֵשׁ כִּחָה      אֵיךְ מִנְתִּיבָה אֵט<sup>43</sup> וְאִשְׁכָּחָה  
לִי<sup>44</sup> הֹדֶה הָאֶצֶל וְלִי רִיחָה<sup>45</sup>      מוֹל עֲמֻשָּׁה אֶקוֹד וְלִירְחָה:

33. עוד לו (to al-Meridi or—more likely—to Todros) 2 verses, beg.: לבבי חדלו שואות בצדי.

34. והולך רכיל אחד הגיד לאדני שזה הנכבד התרעם מעמך 2 verses, שיר אחד משיריו ושקרהו חלום כחש לו וכתב אדני אליו beg.: היגור גור אמר. The term נכבד here refers to Todros.

35. זה אשר התנצל אליו השר הנז' 3 verses, beg.: ידיד לך. Here Todros is called השר for the first time. במה אכף לך

36. ועוד מקץ שנים אחרי הפרד הרב הנכבד מעלינו ושובו לנבולו הוסיף היקר הנכבד דון נשיא להתעולל על דמיון הנז' אשר חדש אדני אל הרב בדרך ההלל מהללויה עד מהלל בתשבחות הוא מה שדלנו אדני בשירו ובחדש שהוא אחר הפסח חדש לו אדני שיר חדש על זה הדרך במה שעזבו הנכבד הנז' גם הוא וקראו מפני שנתחדש אחר עבור הפסח ושלא בזמנו פסח שני והקדים אלו החרוזות. There follows a parody edited by Tamah, p. כ"ה b (comp. Davidson, *l. c.*, note 10 and 11). The introductory verses in the manuscript more correctly: דוד נד והשיאו and מפני הטאינו have not been entered in my notes.

37. חדש אדני פיוט לפורים בדרש ושלחו משם בנרבונא אל החכם המעלה אוהבו הערב מסטרי קשלרי ושלה אליו עם הפיוט זאת האגרת בערב הפורים מעוררת ידידות ומחדשת חברה מענינא דיומא. The piyyut is missing, the letter which closes with יסרוני לא לנו לא לנו חלק בדוד ולא נחלה begins: אברהם בדרשי לא נכסוף; from the contents I quote the following: בקשלרי

<sup>38</sup> "The young (the weakest) of thy thorns".

<sup>39</sup> MS. יפִי.

<sup>40</sup> Related in sense to ארמון Ps. 48.14; 122. 7.

<sup>41</sup> So to be vocalized due to the pun.

<sup>42</sup> בראות P.

<sup>43</sup> MS. מנתיבה—vocalized מנתיבה—may be right. P has הט for אט (Job 23.11)

<sup>44</sup> MS. and P. בי.

<sup>45</sup> P. ריחך.

למעשה סנדבר, לא נחוש לאלף לילות ולא נחמוד צורת הלבט(?) ובלר [בילאר r.]... כל שירותינו שקולות והיו למאורות ואהבות לא עסתירותא וכרונ וקיקלר, שירים ערבים יורדים חררי בטן בלי רשות... Concerning David Caslari see Gross, *Gallia*, p. 425; about Samuel of Salon above XV, 4 and 5.

XVI. Fol. 84a—94b: Poetical correspondence between Solomon b. Mubchar and Isaac Uziel, superscribed אלה דברי פי החכם חן החכם מאד נעלה לתהלה הר' שלמה ׳ן מובחר נר׳ו אשר כתב להחכם השלם הר' יצחק עזיאל. The correspondence contains the following items:

1. Solomon to Isaac: *a)* זמרים רוקמו (4 verses, rhyming word וציץ); *b)* כל שר וכל נון בשירך יחלים (3 verses, rhyming word פעם); *c)* הוד והדר לך טוב להודות (rhymed prose); *d)* Address (על הכתב): השולח בים חכמה (rhymed prose); *e)* Address (על הכתב): השולח בים חכמה (rhymed prose).

2. Isaac to Solomon: *a)* דבר פיו בשר לו לצאת לקראת שחיו (4 verses, rhyming word חשק); *b)* כתר לצוארי רבידי חשק (3 verses, rhyming word לבב חשק); *c)* אתמול בנך שוטטו עיני לבב חשק (5 verses, rhyming word רורף); *d)* שור הנדוד דוד אחרי רורף (4 verses, rhyming word עט אמרים מסנור); *e)* שלפי ימיני עט אמרים מסנור (rhymed prose); *f)* Address: נדוד: נדוד: שירותיו (יזוש) r. חדש עמדי (rhymed prose).

3. חולים בעטך ימצאו מזור *a)* ואבני יקר תשובתו הנה הנם (5 verses, rhyming word מזור); *b)* על מה מתי שכל ברשת הזמן (4 verses, rhyming word בני יום לאצילי בין); *c)* אוי כי בני יום לאצילי בין (4 verses, rhyming word עולם); *d)* ראו הולך בנו ערום ויחף (riddle on the pen 10 verses); *e)* כאשר ישאל איש (rhymed prose); *f)* Address: המעתיק אר"ש בצחות (rhymed prose).

4. מה תחרר דוד על זמן *a)* וזאת תשובתו אליו (4 verses, rhyming word קנה עטך רקמות); *b)* אכסה את קנה עטך רקמות (solution of the pen riddle, 10 verses); *c)* עת מחזי הדיו (4 verses, rhym-

ing word (קמה); *d*) מי האיש ההפץ דעת (rhymed prose);  
*e*) Address: הלא און מלים תבחן (rhymed prose).

5. ופרשת עטו היוצאים לקראתו לרוץ במרחב התשובה:

*a*) (קמה 4 verses, rhyming word שירך);  
*b*) (חובל 3 verses, rhyming word עטך);  
*c*) (riddle on the reed from which the pen is cut, 2 verses with the rhyming word ובינה);  
*d*) (בריאה 2 verses with the rhyming word שופר בעיר);  
*e*) Address: השם (rhymed prose);  
 עבי הזמיר רכובו (rhymed prose).

6. בעמקי *a*) (זה יענו מלאכי אמריו לעומת מסגרת חרוזי);  
 בדרך *b*) (חובל 3 verses, rhyming word חתחתים יצורי נבעתים);  
 דוד קנה מרת תבונות (solution of the reed riddle, 2 verses with the rhyming word בריאה);  
*c*) (7 verses, rhyming word ילדי זמני יחירדוני);  
*d*) (3 verses, rhyming word עת עלי שיחך נושבה רוחך);  
*e*) (דרור 3 verses, rhyming word בראותי בחזותי שפעת מי הדיו);  
*f*) Address: אולו מים מני ים (rhymed prose).

7. ורוח דעת צרר בחפני התשובה. *a*) (3 verses, rhyming word זך וישר ובר);  
*b*) (2 strophes of 3 lines each, rhyming word מימי תבונתך מליך);  
*c*) (3 verses, rhyming word לא האמנתי כי ידובר בי);  
*d*) (rhymed prose; contains: דוד אחד קדוש מן החברה חולב דבר בינה ומחבץ חובצין הח'; מוסר);  
*e*) Address: יסד אר"ש על מכוניה: (הנעלה הר' יאושע שונצין נר"ו (rhymed prose).

8. לרוב [לרים? *a*] (ומה דמות ערך זמיריו למעניהו);  
 לא *b*) (3 verses, rhyming word עבותי מענה נקשר);  
 כי יזלו עבים מטר (2 strophes 4 lines each);  
*c*) (2 strophes 3 lines each, rhyming word אס חנורום);  
*d*) (2 verses consisting of monosyllables, rhyming word כשבת מושלים שבט);  
*e*) (2 verses, rhyming word עטך במלכות זמירים);  
*f*) (3 verses, rhyming word ביום השבת נכנסין בעלי תריסין);  
*g*) (3 verses, rhyming word על זאת יתפלל כל איש);  
*h*) Address: (rhymed prose).

9. ואלו אמרות טהורות מאתו. *a)* על בן או בת (2 verses consisting of monosyllables, rhyming words); *b)* בכל (בן); *c)* שכלך (סרבים) (2 verses, rhyming word); *d)* עטך קנה כושם (כן); *e)* לבקש דבר אל לאיש שמך דורש (נטף) (2 verses, rhyming word); *f)* אם רוח המושל העלה עליו (ככר) (3 verses, rhyming word); *g)* Address: מי האיש החפץ טוב טעם (rhymed prose).

10. נשם *a)* תשובת ימין עוז הח' הר' יצחק עזיאל נר'. *b)* בצמדי (נטף) (2 verses, rhyming word); *c)* תוך (ככר) מננינות תבקע הר בינות (3 verses, rhyming word); *d)* הן כל אלה (כבר) (6 verses, rhyming word); *e)* הן לשבט מושלים (rhymed prose); *f)* יפעל עטך (rhymed prose).

11. שוררים *a)* ואלה שמות בני שיריו הבאים להשמיע דבריו. *b)* שירך (כבר) (6 verses, rhyming word); *c)* עטך (כרמים) (2 verses, rhyming word); *d)* שלומי אמוני (כתמים) (2 verses, rhyming word); *e)* Address: עוקר הרי הרים וטוחן זה (rhymed prose); *f)* בזה (rhymed prose).

12. אף על זה פקח עיניו להשיב שולחו דבר ויען ויאמר. *a)* (כרמים) (2 verses, rhyming word); *b)* רשמי שבילי קנה עט (3 verses, rhyming word); *c)* האם (פורק) (2 verses, rhyming word); *d)* מלקחך מורה (מורה) (4 verses, rhyming word); *e)* Address: אופן בהיר נושא (rhymed prose); *f)* נשמה עליזה (rhymed prose).

13. זמן יחרוך שערן *a)* ולא אחר עטו מלענות תבונות (2 verses, rhyming word); *b)* אף כי זמירי כמוץ בפני (פורק) (4 verses, rhyming word); *c)* הנד הידעת נכה (מורה) (4 verses, rhyming word); *d)* רנל (riddle on the pen, 2 verses with the rhyming word); *e)* (זולל) (2 verses, rhyming word); *f)* נביר ארצו שוה (זולה);

שמעוני אחי ועמי: Address: *f*); *f*) Address: שמעוני אחי ועמי (rhymed prose); *e*) יקר מזולל הוציא (rhymed prose).

14. קנה בידך כדרור לעוף *a*): וכתב אשר נכתב בימינו (solution of the pen riddle, 2 verses with the rhyming word); *b*) (2 verses, rhyming word טורף) והלוח טרף כשר צחות טורף (זוחל); *c*) (7 verses, rhyming word נץ) תליי וקשתי בעת אשא וחץ אאביר (חיה); *d*) Address: מבינתך יאבר נץ (rhymed prose); *e*) Address: אנוש כחציר ימיו (rhymed prose).

15. אם עיר מליצים בלי חומה *a*): ורוח מבינתו יעננו (6 verses, rhyming word חיה); *b*) (10 verses) פו זמיריך ועינו (10 verses); *c*) Address: שבתו וראה תחת שלש (rhymed prose); *d*) Address: אם ימדו שמים (rhymed prose).

16. אם אנוש יתן רכושו *a*): ומפתח שפתיו (10 verses); *b*) (3 verses, rhyming word כסל) סחרו רגלי מעגלי מעקש; *c*) (3 verses, rhyming word likewise לב) התקדרו בינות חסר לב; *d*) Address: כל רעיוני פחדו מקול הקורא (rhymed prose); *e*) Address: שכל טוב יתן חן (rhymed prose).

17. אחר זה הפסיק הנדוד ביניהם ונפסק חוט שני שפת דעת ומטר הזמירים לא נתן ארצה עד צאתו מבור מבור (sic!) השבי חמסי על אוילים לעני שיר *a*): שדרש את ידידו בטורים אלו כי יפלא בעיני שארית *b*) (8 verses, rhyming word בעירם); *b*) Address: הידיעה (rhymed prose).

Of the 17 pieces, Nos. 1, 3, 5, 7, 9, 11, 13, 15 are signed by 'שלמה ה' מובחר, Nos. 2, 4, 6, 8, 10, 12, 14, 16, and 17 by 'יצחק עזיאל.

XVII. Fol. 94b—98a: Various poems by and to R. Eli, superscription: 'להחכם הנעלה הר' עלי נרו'.

1. ויהשבה עלי, accompanying letter to the following poem, rhymed prose, finished:

אלף אלפים שואפים נופת      צופים שפתיו מר דרור נוטפים  
ביתו לוועד לחכמים לו      יתקבצו כלם ונאספים

22 verses, in alphabetic order, arranged so that at the beginning of every verse the corresponding letter is employed in its verbal meaning. Verse 17 reads: פה הללה אתמול לדוד הן הרבבות לו והאלפים probably in allusion to the one praised, in which connection 1 Sam. 18.8 is employed ingeniously.

3. ועוד לו א"ב אחרת טובים השנים מן האחד, a similar poem, 11 verses, at the beginning of each verse two letters of the alphabet; as an example I submit the first two verses:

**אב** לתעודה יקראו בשמו הכי מור ואהלים משפתיו נוטפים  
גדלו ועמקו עד מאד הוד מעשיו ובני חלוף אל מחמדיו שואפים

4. א"ב אחרת על סדר השר"ק, likewise 11 verses, example:

**תשורה** אין להביא מזהבי מעולפת במשכיות כספים  
**רקמות** יובלו לפני מלכים לך שר ילכו שירים צרופים

5. א"ב אחרת על סדר א"ת ב"ש, likewise 11 verses, example:

**אתאר** אפאר ומירי ושירי והוד מאמרי במשכית כספים  
**בשי** למלכים יחלו פניהם לך שר אקדם בשירים צרופים

6. בקעי אדמה את סגור לבך משכן הכניי ישרי עקב, 4 verses, every one of which begins with the letters בק and ends with the letters קב, wherefore the poem is designated as עינול. The last verse reads: בקי הלא ידע ושואל מי; should this be the one praised? Or should R. Eli also have been named Jacob? Or was the poem attributed to him wrongly?

7. להח' הר' עלי נרו' בהשיבו לה' הקראים, 5 verses, likewise an עינול: every verse opens with רב and closes with רב לך ואל תוסף לאסף מקציר חלקה" שבא; beginning: השיר כאחד קש ובר



8. איך באנוש יחד, ועוד על הענין. 2 verses, beginning: במקום נאמן.

9. מה נפלאה אהבתה לי. 2 verses, beginning: ועוד.

10. להח' הנ' (i. e. by Eli, but, as seen from verse 3, addressed to משה), 3 verses, beginning: השם נאות השיר הרב.

11. a) להח' הנ' ושלחו להחכם הר' מאיר אנגיל נרו'. יסוד (10 verses); b) Address: ראה וירצה (rhymed prose). נגד המעתיק ארץ הצחות ממקומה.

12. כן באו אלי אמירי ספירי (Meir to Eli): a) והשיב (rhymed prose); b) נעים זמר ראיתיך מדומם (3 verses).

13. ועל הנדילו פה במשוררים השיב (Eli to Meir?): a) בלאט, 39 verses, whereupon עברי משוררי הזמן ימלוכו; b) זמירי יצאו, 3 verses, as סימן for the number of verses.

XVIII. Fol. 98a—99a: Two poems without superscription, the one by, the other to Meshullam da-Piera.

1. דגל אשר מאהלו נוסע אמרו הלנור או להשתקע. 41 verses; in verse 37 the poet mentions his name, according to verse 39 the poem is addressed to יצחק הנביר.

2. לעתים אשר כראי חוקים, the well-known poem, edited for the first time by Dukes in Blumenfeld's *אוצר נחמד*, II, p. 84.

XIX. Fol. 101a—104a: Various items by Solomon da-Piera, without superscription.

1. אני צלצל תרועתך ידידי להשמיע תהלתך ברעי. 4 verses, according to Steinschneider, *Hebr. Bibl.*, XV, 81, addressed to Vidal [ibn Labi].

2. ועוד הכרוב הסוכך נרו' על אשר יהלתי לשלוח אלי כהבך. בלשון לעז כמה פעמים והחלתי לדברך לא שב ריקם החילותי זה ימים לסדר על זה לכבודך הרחמים מענה כולל וכי ארכו הימים וראיתי אני הדבוק הרוחני והשפע האלהי העוטרם אליך יתמלאן

לא נתנוך השב רוחך מהם להביט אל עיניים נקלי הערך כאלה עם כל זה ראיתי להשלימם ולהניעם למעלתך ואם ידעתי כי לא תנקני ותחשבני משיב דבר בטרם ישמע הן קלותי ונקלותי עוד מזאת; תנו כבוד ללועזות בלעזם: thereupon follows the poem: 49 verses, and as סימן three verses with the rhyming word וגם, beginning: משורר לעשות השב ויום (according to the סימן the poem should contain 50 verses, one verse is therefore wanting); comp. *Hebr. Bibl.* XV, 79' (where the reading is תנו תודה). and 81.

3. Very short poems with Tegniss rhymes: a) ביום (רפאחים, רפתים rhyming word 2 verses, rhyming word בתי זמירותי נחתים); b) אמרי נגיד שיר (3 verses, rhyming word לאות); c) נביר מקול (הדרך rhyming word 4 verses, rhyming word ככב תהלך הדרך); d) מצלות מס[וס?] זמירך (8 verses, 1—4 with rhyming word 5—8 with rhyming word סוללה); e) דברך לי דבר (ואנור rhyming word 2 verses, rhyming word אוכל ואנור).

4. עבר בגבולנו אחד (sic!) הר' שמואל שמו בקי בסדרי הזון 2 verses, וקולו ערב מאד והקדימי בתשורת שירו ועניתי ואמרת; beginning: נפשי לקול זמרת שפתך; comp. *Hebr. Bibl.*, XVI, 87.

5. ליקר הגבון וידאל בנבנשת בשבו בגבולנו אחר היאוש, 2 verses, beginning: לא האמין לבי אשר יזכה; according to Steinschneider, *Hebr. Bibl.*, XV, 107, addressed to Vidal Bonafoux.

6. נקרא נקראתי עם חכם מהכמי הנוים אשר הוצרכתי ללכת להקביל פני מעלתו והסביר לי פנים ברוב ענותו ומאשר ידעתי: a) נגה פני הדרך (2 verses); b) בנשתי למעון בית שכינת בינתך: ועוד superscription בברכים כרעות ועינים: ועוד רמו לשמו העצמי superscription שחזת (2 verses, end: והאיש נבריא); d) נדול המעללים ורב המהללים: רמו לכנויו למול (2 verses, end: הר הזחים); comp. Steinschneider, *Hebr. Bibl.*, XVI, 87.

7. אלכם אישים אקרא אחים גם יחד, four short poems:  
*a)* בחכמה או במוסר או בקנין (3 verses); *b)* בחירות ומשלים יאור (3 verses);  
*c)* זמן השבית מתי מוסר בחלדי (5 verses); *d)* בלב יהנה אימה בדעת ומוימה אגלה תעלומה יסוד (22 verses).  
 עולם על מה

8. זה אשר כתבתי לשלם המעלה דון ויראל בן בנבנשת etc.,  
 comp. the data above IV, 3.

XX. Fol. 106a—114a: Various items by known and anonymous authors:

1. Joseph b. Jaish, letter in rhymed prose against a certain Judah b. Gamla, beginning: כי ימצא איש נווע (4 verses, rhyming word נמל) and a citation: עליו אמר המשורר דודים ראו etc. (Immanuel, ch. 20); signed: יוסף בן יעיש.

2. By the same, a letter to Eleazar ha-Kohen: *a)* Title: נקרא (rhymed prose); *b)* נשע נעמן אשר בין ההרסים פורה (rhymed prose; the now short now longer periods close with מים); signed: יהוסף בן יעיש; *c)* צמאה (2 verses); *d)* Address: כתר תורה וכתר כהונה... (rhymed prose). ז"ל was added by the copyist who quite often allows himself such departures from his text; comp. the footnote to XXI, 13.

3. דודי לעני חשוב כמת לה"ר חסדאי ז"ל, beginning: בן שאלוני לאמר (from the introduction of the translation to אברהם בן חסדאי, read therefore המלך והנזיר).

4. למהריט בן יעיש נרו, 2 strophes of 4 lines each with the rhyming word צר, beg.: על אהלי שם צר.

5. למוהר"ר אברהם בדרשי ז"ל, the introductory verses to כרם חמד (IV, 59), beginning אלף אלפין.

6. שירים ששלח הח' הנעלה כהר' חזקיה רומאן נרו להח', an epistle consisting of: *a)* בטרם ארץ ארץ כי תמעול מעל (30 verses); *b)* הטבעו מוסדי ומירות

פאר הוד ישישים (c); (חזקיה רומאן; rhymed prose, signed: (2 verses).

7. להר' יאורה הלוי ז"ל (probably a younger name-sake of the great poet, perhaps the author of הנשים), 2 verses (comp. another version in the introduction to בן המלך והנזיר):

וּלְמַת שְׁאָלוּ דָּבָר וְאָמְרוּ      אָמור לָנוּ תְּשׁוּבָתְךָ וְהָכֵן:  
הָרֵאיתָ בְּחַיִּים מֵר מָמוֹת?      וְאָמַר בֶּן, וְהוּא: „לֹא” אַחֲרֵי „בֶּן”!<sup>47</sup>

למוהר"ר הנניה ו' יקר ששלח למוהר"ר שמואל יפה על 8. 2 verses, beginning: רבבר שאמרו לו שהיה קורא לו אוהב הריע בתומי הלכתי אהבתך כאה.

9. (probably by the father of the deceased): על קבר בן הח' כמה"ר י"ט ו' יעיש נרו'.

הַתְּקַדְרוּ עָבִי לִבִּי בִּיּוֹם      עַל־הַרְרִי בְּתֵר בְּנֵי עֲלִית<sup>48</sup>  
עַד גִּטְפוֹ נְשָׁמִי דְּמַעוֹת לַחֲזוֹת<sup>49</sup>      נְדִישׁ וְקָמָה בְּעֵלוֹת עֲלִית<sup>50</sup>  
כִּי אֶכְתְּבָה קִינִים וְהָנָה עַל־מָקוֹם      קִבְּרְךָ אֲשֶׁר דִּרְדַּר וְקוֹץ עֲלִית<sup>51</sup>

10. למוהר"ר יוסף ו' יעיש זלה"ה על חרבן ב"ה. beginning (3 verses, rhyming word ורדר).

11. בעור נצב: להר' אליא ארוך זכר לחורבן. beginning: (2 verses, rhyming word ארוב).

12. למוהר"ר יצחק אשכנזי ז"ל על מצבת בנו משה שנפטר: עורנו באבו:

כְּלִי־זֶשֶׁבִי תָבֵל בְּקוֹל מֵר שְׁאָלוּ      מִה־נֶּחֱשֶׁךְ שָׁמֶשׁ בְּבֵין עַרְבִים  
וְאֻמְרָה לָהֶם בְּנֵי הָיָה תְּמוֹל<sup>52</sup>      מֵאִיר כְּמוֹ שָׁמֶשׁ בְּלֵב שָׁמִים  
חֲשָׁכוּ פָנֵי מֹשֶׁה פָנֵי חֲמָה<sup>53</sup> אֲשֶׁר      עֵינָיו כִּי־זָנִים עַל־אֶפְיקֵי מִים<sup>54</sup>  
הַיּוֹם בִּיּוֹם שְׁשִׁי לַחֹדֶשׁ אָב שְׁנַת      שְׁלֹ"ט אֱלֹהִים עַל־יָפֶה עֵינִים.

<sup>47</sup> Published in ס' מלחמת החכמה והעושר which is part of the *Constantinople* 1543, fol. 7a.

<sup>48</sup> Gen. 49.9.

<sup>49</sup> בחזות.

<sup>50</sup> Job 5.26.

<sup>51</sup> Hos. 10.8.

<sup>52</sup> MS. תביל היה.

<sup>53</sup> Comp. Baba Batra 75a.

<sup>54</sup> Cant. 5.12.

13. להר"ש רפאיירה ז"ל ששלח לרכיל שעשה לו רכילות, the well-known epigram beginning העקוץ הדבורה (אוצר) II, 194, and elsewhere), which Steinschneider, *Hebr. Bibl.*, XIV, 97, would like to ascribe to Bonfid without adequate reason.

14. על מצבת קבורת רבינו תם זלה"ה:

אם ישאלו אנשי קרִיָה      צִיּוֹן הָלֹז עַל־מִי נָהִיָה<sup>55</sup>  
אָבֵן מִקִּיר תִּזְעַק<sup>56</sup> אוֹיָה      עַל כִּי־יַעֲקֹב בָּחַר לֹו יְהוָה<sup>57</sup>

15. Without superscription: 2 verses, beginning: אם  
חברך רגיל אצלך comp. No. 34.

16. Without superscription: 2 verses, beg. כל  
ענה; from Charisi, *Tahkemoni*, ch. 9; comp. No. 34.

17. להר"ש אלשקאר זלה"ה, 2 verses, beg.: לבי נא אנרהי  
ומרהוק עמדי.

18. בואי שירי עון מבצרי, 2 verses, beginning: עוד להנני.

19. להר"ש ראובן בונפיר ז"ל, 2 verses:

אם תִּתְּנֶה לְבִי לְהַכִּיר אוֹהְבִי      בֵּין אוֹיְבֵי מוֹפֶת וְאוֹת אוֹדִיעֶךָ<sup>58</sup>  
כִּי תִחְזֶה חֶסֶד דָּעָה כִּי הוּא לֶךָ      אוֹהֵב וְכִי תִרְאֶה חֲמוֹר שׁוֹנֵאֵךְ<sup>59</sup>.

20. אוי על פתאים, 2 verses, beg.: להר"ש חרזי ז"ל, from  
the introduction to *Tahkemoni*.

21. בנפשי עברה, 2 verses, beg.: עוד לז', from *Tahkemoni*, *ibid.*

22. Without superscription: 2 verses, beg.: יש עם  
באבלם, Abraham ibn Ezra, ed. D. Kohn (Kahana), War-  
saw, 1894, I, p. 35, No. כ"א, comp. Kohn, *ibid.*, p. 6.

23. על הזמן, 2 verses:

<sup>55</sup> Published by A. Schulman in *Measeph*, St. Petersburg 1902, p. 275.

<sup>56</sup> Hab. 2.11.

<sup>57</sup> Ps. 135.4.

<sup>58</sup> Published by A. Schulman, *ibid.*, p. 274, and also in *Literaturblatt des Orients*, IV, 729, with the reading תִּתְּנֶה לְבִי לְהַכִּיר.

<sup>59</sup> Ex. 23.5.

וְמִן יְרוּחַ תְּמִיד לְהַנְבִּיר עַל־חֵבֶל לְכַוֵּנָת מִי־זָהָב<sup>60</sup> וַיִּשְׁפֹּל בְּ־מִשְׁרָה  
וְלָכֵן אָתִי<sup>61</sup> נִפְשִׁי קָחִי מִנִּי עֲצָה וְעִזְבִּי בְּ־מוֹסָר וְשִׁמְעִי בְּ־נִרְהָ<sup>62</sup>

הן על פרידתך ששון לבי 24. 3 verses, beg.: לכן לבי (rhymes נפשי with ערשי, כוסי).

25. למוהר"ר יהוסף נ' יחייא זלה"ה על הרשב"א ז"ל, beg.: קרחה להרחיב כנשרים, the first two verses of the echo poem critically edited by Kaufmann in *Zeitschr. f. Hebr. Bibl.*, I, 24.

26. להר"ש די פייאירה ששלח לחתן על מנחת יין וב' אבטיחים, 2 verses, beginning: מה טוב וגעים שי זמיר שיחך.

27. על רופא שבקש שכר הרפואה מאיש נבוח; the verses are registered here as supplement to Steinschneider's collection (*Zeitschr. f. Hebr. Bibl.*, VIII, 189 and IX, 25):

תַּמְהִים עַל־חֻלָּה בְּזוּי עַם גְּסִינְקָלָה  
שָׁכְרוּ לֹא מָלֵא לְרֹפְאָיו וְחֻכְמָיו  
עֲנִיתִים כִּי יָבִיר דְּמִי כֹפֶר בְּמַחִיר<sup>63</sup>  
וְאֵין פּוֹדִין אֲסִיר בְּיוֹתֵר מִדְּמִיו<sup>64</sup>.

28. על מצבת כמוהר"ר רבינו יונה זלה"ה, 2 verses:

הֵן מִהֵר חוֹרֵב נִחְצְבָתִי אָכֵן שְׁהֵם עַל־רֹאשׁ פְּנֵה  
מֵה־לִּי לְשֹׁכֵן אֶרֶץ, שִׁחַק אֶסַּק כִּי בִּי כִנְפֵי יוֹנָה<sup>65</sup>.

29. על מצבת קבורת הה"ר יחיאל בכמ"ר שבת הלוי, 2 verses:

פָּתַע וּפְתָאוּם<sup>66</sup> קְדָמוֹנִי מוֹקְשִׁי מוֹת יִסְבוּנִי מֵאֵד חֲבָלִי שְׁאוּל<sup>67</sup>  
לֹו מִשְׁאֲלוֹת לְבִי יְקוּמוֹן אֲבַחֲרָה שֶׁבַת וְרֹדֶת אֶל־בְּנֵי אָבֶל שְׁאוּל<sup>68</sup>.

30. מי בזמן זולתך, 2 verses, beg.: להראב"ע זלה"ה, in the above mentioned MS. Prague fol. 116b anonymously with the superscription: על הבתולים.

<sup>60</sup> Is is wanting in the manuscript; comp. Gen. 36.39; I Chr. 1.50.

<sup>61</sup> MS. 28.

<sup>62</sup> He sees a ransom in the honorarium.

<sup>63</sup> Comp. Ps. 139.8; 55.7; 68. 14.

<sup>64</sup> Comp. II Sam. 22.6; Ps. 18.6.

<sup>65</sup> II Sam. 16.5 and elsewhere.

<sup>66</sup> Comp. Mishnah Gitin, IV, 6.

<sup>67</sup> Comp. פתאום would be better.

<sup>68</sup> Comp. Gen. 37.35.

למוהר"ר שלמה דיפיאירה ז"ל על איש שהיה כותב. 31.  
ומיריך וטוב טעם לשונך. 3 verses, beg.: שירים לאיש נעדר

על מות אברהם בכמוהר"ר יוסף נ' יעיש זלה"ה. 32.

ושמשו מאירה על-פני תבל כיום אתמול באור צדק וירח בלי<sup>69</sup>  
אשמה בחברתם ולא אדע שכול עוד כל-ימי ארץ וירח בלי<sup>70</sup>.

אם הזמן. 33. 3 verses, beg.: להר"ש די פיאירה זלה"ה.  
יברח כצל לא יעמוד

אמור מה היא כבודה בת מלכים. 34. 4 verses, beg. חידה נאה

נהר דינור. 35. Without superscription, 2 verses, beg. להבחין חין

אם חברך. 36. Without superscription the short poems already indicated above Nos. 15 and 16.

אשר לאכול. 37. 2 verses, beg. על איש עצל והוא זולל וסובא  
הרעה

במותי ימותון ירותון. 38. 2 verses, beg. להר' משה נ' אלעזר  
והימן

האל תמול אמר. 39. 3 verses, beg. להר' יצחק אשכנזי  
ליצחק העלה

לשתיל ההמדה לתורה ולתעודה הר' אלעזר הכהן נרו'. 40.  
2 verses, beg. מתוקים מדבש מימי מנוחות

כנפך ספירים באצבע השרים a: לצנתרת לשון הזהב הנ'. 41.  
4 verses, the third reads: כדברי האנור (אמריך בן-נור יאודה הישרים<sup>71</sup>  
מראש שירים b); ואחר אלו השירים כתב (rhymed prose, superscription: אראנו  
4 verses, superscription: שמעו נבונים גדלך נחבאו c); (דנא כתבא  
(ואחר שלה לי אלו השירים).

נדבת אנוש מוער. 42. 3 verses, beg. למהר"ט נ' יעיש נרו'.  
(rhyming word יוסף) הלא מצער

[ידמן] לפניך בלי מדע a: 43. Without superscription: (מחול 3 verses, rhyming word כל בני מחול);  
2) בני הוצב להב c: (rhymed prose) יהי ד' אלהיך ברוך b)

<sup>69</sup> Comp. Ps. 72.7.

<sup>70</sup> From בלה; comp. Is. 51.6.

<sup>71</sup> MS. דשרים.





53. Without superscription: 2 verses, beg. אם האופן לך יתעור, from מחברות עמנואל, ch. 1 (where: לך התנכר; for MS. has המול).

54. לבי למי אך כחילים יהמה, 2 verses rhyming with word זבול, beg.

55. Without superscription: a) דרור מצאה קן לה (2 verses of a composition which is completely presented in MS. Prague fol. 77b ff.); b) קחה שיחה לך צחה (2 verses); c) מסבה ערבה אנוש אחרי בא (2 verses, also MS. Prague fol. 117b), transmitted in the name of Solomon Bonfid and communicated by Dukes, *Literaturbl. d. Orients*, 1850, col. 571.<sup>79</sup>

56. Two letters of introduction: a) מפי סופרים ומפי (superscription מליצה; the periods rhyme in יִין); b) מה אומר לפני אדוני (superscription הלצה, addressed to a certain Samuel, ends: על כן רוי די רוי אליעזר; the periods rhyme in בות).

57. על הזמן, 3 verses beg. איכה אאמין לזמן = Judah ha-Levi: מה האמין בזמן (*Diwan* II, p. 300, No. פ"ב).

58. כל הון אשר תהוה באנשי, 3 verses, beg. עור על הענין.

59. על הכתב (Address), beg. ממנו נדח תושיה נדחה (rhymed prose), the letter itself is wanting, accordingly there is a lacuna between fol. 113 and 114.

60. Without superscription: a) יצורי צר רמ"ח יוצרי (5 verses); b) ארוכה מעלה נותן זמירות (4 verses); c) כמעט רגע אל כל ננע (2 verses); d) תמול תמור אמריך (3 verses).

XXI. Fol. 114a—128a: Letters by Benveniste and Vidal b. Labi:

<sup>79</sup> First published in שארית יוסף of Joseph ben Shem Tob, Saloniki 1568, at the end.

1. כתב שלח השר דון בנבנשת 'ן לביא לר' יוסף אורהבונה. על משפט אחר נעשה במלכות נאבארה מר' יאודה הלוי זצ"ל beg. נגיד ומצוה אלדים יענה את שלומך. *Hebr. Bibl.*, XV, 56. In this interesting letter mention is made of 'דון מאיר) and Meir Alguadez הנכבד דון שמואל 'ן בנבנשת נרו' (אלוואדישו) is spoken of with great admiration. The passage quoted by Graetz VIII, Note 2 (3 ed., p. 402, note 1) concerning Juda ha-Levi reads as follows: הנה אמת הנה נכון כי בהשמע דבר דון יאודה הלוי בעודנו חי לא האמננו לשמועתו יען וביען אבותינו ספרו לנו יתרון הכשר מעשיו בכמות ובאיכות, כאשר היתה המשרה על שכמו ונתן עליו עול מלכות, דורש טוב לעמו ודובר שלום בכל לשון של זכות, וכאשר נשתנו עליו סדרי המערכת, ותהי להפך כי נהפכו עליו ציריה וחמתה נתכת, ותקופות הימים הקיפוהו ימי עני עדן ועידנין זמן זמנים, מחוסר כל לא חטא בשפתיו ולא רגל על לשונו מרוב אונים, למלא נפשו כי ירעב לא דבר סרה, ולא קלקל את השורה, לא התערב עם שונים, כללו של דבר, בשפלה ובהר, מנער ועד זקן האמת והשלום דרש דרש, אחר עשיר ואחר רש, בכל עת יהיו!) בנדיו לבנים, צדקות אהב הצעיר בבית. It is signed: ומפשע רב היה מה' ומישראל נקי לביא not אבי, 'ן יהודה, as Steinschneider (*Hebr. Bibl.*, l. c.) quotes from MS. H.

2. לדון בנבנשת 'ן לביא שלחה לבנו אנביראל ולוידאל 'ן. כאשר צר לכם צר לי המקום a) בנבנשת בקראם ספר השמע (rhymed prose); b) Address: ממשפחה (rhymed prose); signed: לביא 'ן בנבנשת וידאל!) 'ן לביא. *Comp. Hebr. Bibl.*, VI, 14 note 3.

3. Without superscription, presumably likewise by Benveniste, beg. מגרעת נתן (rhymed prose), letter of introduction for a poor man—Menahem? (according to the superscription in *Hebr. Bibl.*, XV, 59: נתן)—who wants to emigrate to Hebron.

4. Without superscription, presumably by the same, beginning דבר עשות צדקה פי ר' (letter of introduction in rhymed prose; the periods rhyme in מלך); comp. *Hebr. Bibl.*, *ibid.*

5. לדון בנבנשת ו' לביא לאיש היה מעורר חתון מבחור בעל נכסים; על משמתי אעמודה ואחיצבה, beg. *Hebr. Bibl.*, *ibid.*

6. כתב שלח דון ויראל ו' לביא לרבו ואלופו הר' זרחיה הלוי נ"ע (rhymed prose, signed a) ישמחו השמים אור ננה עליהם; b) Address: הורה שבכתב: הורה ביוצקי מים על ידיך ו' לביא להורה (prose); comp. *Hebr. Bibl.*, XV, 82.

7. Without superscription, letter in rhymed prose, beginning נם מהמול גם משלשום ויראל ו' לביא; signed: comp. *Hebr. Bibl.*, *ibid.*

8. nuptial congratulations in prose, without signature, beg. ידיד ר' עליון; in MS. Prague the superscription reads: עור לו, *i. e.*, Vidal b. Labi. The following passage is cited from the contents: והגדלתי והוספתי לברך את ד' אשר נתן לי בן יקר: לפי מיעוט השנים ואולם אחי הגדול בתבונה ובדעת יושב על כסא שכיות ההמדה ועיני רואות.

9. כתב דון ויראל ו' לביא על פטירת אחיו נ"ע, rhymed prose, beg. ברנע קטון נהפך לאבל כנורי; comp. *Hebr. Bibl.*, XV, 82.

10. אגרת תנחומין שלוחה להח' הר' זרחיא הלוי נ"ע על פטירת נ"ע, כל עוד נשמתי בי אף רוחי בקרבי, beg. בנו נ"ע, rhymed prose, without superscription; in MS. Prague fol. 60a the superscription has שלחתי for שלוחה, the author is Vidal or Solomon da-Piera (who perhaps writes in the name of Vidal, a circumstance which may be assumed with good reason also in regard to other poems by Vidal). I intend to publish this letter elsewhere.

11. כי יצא a) לדרון יוסף ו' נהמיאש על פטירת בנו נ"ע. —פה (rhymed prose, the periods rhyme in —פה, signed: וידאל ו' בנבנשת); b) Address: מחמד עיניו (rhymed prose). In MS. Prague fol. 60b the superscription reads also: אחרת שלחתי.

12. Without superscription, consolatory letter to an unknown person, beg. מקטב ישוד ישדר עמקים (rhymed prose, signed: הצעיר וידאל ו' לביא); in MS. Prague fol. 61a without signature (superscription: אחרת).

13. לרב אחד הסכים לבלתי קחת כ"א ד' הלמידים ולא קיים. כל ישראל חברים ערבים זה לזה, beg. חנאו וכה אמרתי, signed: הצעיר ו' לביא; in MS. Prague fol. 57a without superscription and without signature. The רב had agreed with האה האה (MS. Prague more correctly: אנשמואל קרישקאש), who entrusted him with the instruction of his children, not to instruct more than four pupils, now this reproach is made to him: ולקחת לך על בניו בן חמישי; further: כי בינו ובינך היתה שומה תשלחם לעתים ידועים בכל; שבוע ביתה החכם הר' שלמה דפייאירה ז"ל<sup>81</sup> ללקוט בשבלי זמרת זמיריו שנים שלשה גרנרים כאשר תשיג ידם ומפני הקנאה הסיבות [את] לבם אחורנית והם גם הם מפני פחד תגרת ירך הנטויה עליהם נסונו אחור מהכנס בביתו.

14. כתבתי לפלוני<sup>82</sup> כמורה ומתורה את חטאי אני מזכיר כי עיני rhymed prose, beg. אחרו עד הנה פעמי מרכבות מליצותי, signed: וידאל בנבנשת ו' לביא; ולבי אף רוחי בקרבי.

15. לדרון וידאל ו' לביא לדרון מאיר אלוואדיש בהפיל חחנתו. לפניו ישקיף השקפה לטובה על הר' פ' ופ' המחזיקים בעץ חיים עטרת הפארה וצניף מלוכה, beg. דת, rhymed prose, the recommended are Jona de Maestre and his son Solomon.

<sup>81</sup> Also here ג"ז was added by the copyist; MS. Prague fol. 57b has א"י (= possibly וישפרהו אדקים).

<sup>82</sup> MS. סדורה.

Comp. *Hebr. Bibl.*, XV, 56; here the signature reads 'לביא' (not 'יהודה').

16. לקהל פלוני באמור עליהם ירחקו המחלוקת ויכלו קוצים. אמ. מהכרם, thereupon follows a letter of friendship, beg. 'לביא' רחק ה' הפנים לפנים (in rhymed prose, signed: 'לביא' (*Hebr. Bibl.*, XV, 59, without name signature); there is therefore a lacuna between the superscription and the letter.

17. מי איפה. כתב להר' שניאור בסיפור שבחי' דמר. (rhymed prose, the periods begin with מי and rhyme in —ים), without superscription; in MS. Prague fol. 42b under the "לביא זלה"ה; *Hebr. Bibl.*, *ibid.*

18. אם אֶסֶק שמים. כתבתי לבני תוכחת מוסר וכה אמרתי. (rhymed prose, signed: 'לביא' (אביך 'לביא'; *Hebr. Bibl.*, XV, 58.

XXII. Fol. 128b—131a: כתב שלוח לנאקון אלבלג מהר' שלמה בונפיד כי הנידו לו כי הטעהו המטעה ישועה אין ישועתה לו. ללמוד ספר השמע וכששמעו נלאה מנשוא ומהר למצא וכה אמר. letter in rhymed prose beg. אוהבך: מי נתן למשיסה יעקב. end: לכשתרצה שלמה בכמה"ר ראובן בונפיד; the periods close with biblical verses on יעקב. The following is cited from the contents: — הובשת היום פני החכם הר' שניאור, אשר באורו— ראית אור, ושתית מעט מים מבורו, קולו כנחש ילך ממקום מנוחתו ויגדיל כספרו, כי הקימות היום את עבדו, לנבל כסא כבודו, לכן איעצך לא תעלה על ספר זכרו ותלמודו, ולא יקרא עוד שמך יעקב. Comp. *Hebr. Bibl.*, XIII, 64 and XIV, 96.

XXIII. Fol. 131b—133b: כתב ששלח דון שלמה הלוי בעודנו במדינת לונדריש אל הרב הגדול החכם דון מאיר אלואדיש והוא אומר שהזהיר את עצמו מין נסכיהם והיה מצטער לאפסתו כאשר a) על זה כלתה נפשו ונכספה לשונו לרבר צחות וכה אמר מים למתנות ומנות נועדו b) (rhymed prose); התעו אותי אלדים.

(9 verses); *c*) אלה אזכרה ונפשי עלי אשפכה (rhymed prose); *d*) מי כמוך אור עוטה להמציא גבוהים (a מי כמוך for Purim, the last lines of the strophes, taken from the Bible, end in יין; 25 strophes, the first 11 with the acrostic אני שלמה הלוי (to be added to Davidson, *Parody in Jewish Lit.*); *e*) נאם אשר מעין המאורע (rhymed prose; end is wanting). Comp. Graetz, VIII<sup>3</sup>, p. 83; according to our superscription Solomon wrote the satire when he was still a Jew, the phrase כאשר התעו אותי proves nothing, since the author was indeed away from home.<sup>83</sup>

XXIV. Fol. 134a—136b: אלו הם הפירות כסדרן, Hebrew names of fruits (but also מים, דגים, בשר, לחם, etc.) in five groups, whereupon, with the superscription ואלה השירים ואלה המחשבות להשיב לבעל המחשבות, follow 30 couplets in which the registered terms reappear. It is a trifle about which I can say nothing more definite, since the beginning and end are wanting.

XXV. Fol. 136a—b: Three short poems having the same metre and the same rhyme and belonging together, though there is no inner connection between them: *a*) עורי מליצתי בדרך אשרי (16 verses, designated as מרובע, though this designation—in its customary sense—is not justified); *b*) יחש פלג מלא מים בעת שרב ואם (4 verses, superscription נא); *c*) עז תדרכי נפשי בערך דהרי (4 verses, named סביבו); in *a*) every two verses have a rhyming word, with the exception of verses 3-6 which have one rhyming word; *b*) has throughout the rhyming word נהרי (verse 3: נא הרי); in *c*) again every two verses have a rhyming word.

XXVI. Fol. 136b—139b: A number of short poems

<sup>83</sup> Published in *Letterbode*, X, 79—84; *JQR.*, XI, 259—263. The poem ימים למתנות is also published in Landau's *יהושע הלורקי*, Antwerp 1906, p. 22.

partly by known and partly by unknown authors, partly with and partly without superscription<sup>84</sup>:

כל הומנים 2) (2 verses); באשים יש אשר כלו חסמים 1)  
 כל תחזה עין במחמדי 3) (3 verses); מימי קדם 2)  
 משול משה והתנדל 5) (2 verses); הבט נרות הם כמאורות 4)  
 ראו 7) (2 verses); עת יעלה נדיב ויצליח 6) (2 verses); יפה נוף  
 כל ראתה עיני והביטה 8) (2 verses); בנוח עלמות לא יערום  
 תאומים 10) (2 verses); לעושי טוב יהי עוזר ומנן 9) (2 verses);  
 אם מהלל מאיר אספרה 11) (3 verses); נולדו אורים שנים  
 אשר ירוץ קנות שכל ובינה 12) (2 verses); end;  
 העת בזוי עם יעלה שיאו 13) (3 verse); (שאל איפה שמואל  
 אדם חרוץ לקראת 15) (2 verses); יצו האל למתנדב בעמו 14)  
 רב טובך חיים ויפית עדי 16) (2 verses); <sup>85</sup> חרוץ  
 אשר ישוט לבקש 18) (2 verses); בנדי פאר יהיו בנריך 17)  
 (בעד שם טוב יהי דורש 2) (2 verses, in verse 2); איש אמונים  
 אמיר בשם 20) (2 verses); לא איש כמו זה יהיה עוד!) 19)  
 21) (על אפריון superscription 9 verses, ושושנת עמקים  
 על 4 verses, superscription) בהתהפך זמנך אל תבהל 21)  
 22) (2 verses, superscription) סהרי נוער שער שחור; (תהפכות הזמן  
 חשק לנשיא ר' אברהם superscription 23) (על השיבה  
 חן הסדאי ז"ל

אביט בפני חקה ושרי  
 עלמה כשני אבני שחם  
 אבחר מות לו ידעתי  
 כי שמה קבר אברהם<sup>86</sup>.

24) superscription (the one mentioned above, XX,7):

<sup>84</sup> Of the poems registered herewith some are known and published, but I lack the means to indicate all the sources, and therefore confine myself to a few data only. To Nos. 2 and 30 comp. Appendix sub I; to No. 15 see the references in Steinschneider, *Hebr. Uebers.*, p. 878, n. 175 (for CB. 1304 r. CB. r. 2304) and *Katal. Muenchen*, sec. ed. (1895), p. 89. As to Nos. 26—29 and 32, which are derived from Moses ibn Ezra's *harish*, and No. 31 which—according to the superscription—likewise belongs to the same poet, comp. Appendix sub II; to Nos. 36 see *ibid.*, sub III.

<sup>85</sup> Published in *חרמים ערבים*, fol. 8b, and in J. L. Margolis' *כפר טב ויפה*, Frankfurt a/O. 1770, fol. 6b. In this connection it may be of interest to know that Margolis incorporated in his book many epigrams of R. Isaac ibn Alha'lab without mentioning his name (See Carmoy in *דברכל*, VI, 85).

<sup>86</sup> Gen. 25.10.

טוב להיותך בן־אחי חסדיאי      אבְרם ולא תבוש בְּעַד אִשָּׁה  
וּדְרוֹשׁ וּבִקֵּשׁ אַחֲרֵי כָלָה      כִּי הִקְדָּשָׁה לְאִנוּשׁ בּוֹשֶׁה.<sup>87</sup>

להבנות (8 verses, superscription עצה וטוב טעם לך אשאל 25) אם (26); (הבנותים על חילם וישכחו כי לא יועיל הון ביום עברה יסר אנוש נאה וקראהו 27); (2 verses) מי ענבים במים לו יחזו 29); (2 verses) נפשי בילדת נפנים 28); (2 verses) אני השיר והשיר לי לעבד 30); (2 verses) תנים תמנחו סוב תחזה עופר 31); (להר' שלמה גבירול ז"ל superscription 32); (לר' משה ו' עזרה superscription 2 verses) אשר רכב שמור לולי ומכל 33); (2 verses) בנפשי יעלות ביופי כלולות 34); (2 verses) ברה במר תבכה במאר עלי אמה 34); (2 verses) יפה 36); (כבר 4 verses, rhyming word אבי תנה ירך היה 35) אל תפחדו תרהו בעת תראו 37); (2 verses) תכבס את בנדיה במי על שלות הבוגדים ותענוניהם (3 verses, superscription אנוש 6 verses, super- השכח הזמן פלס נתיבו 38); (וארך אף ה' בהם מה תחרש 39); (על ענין צדיק ורע לו רשע וטוב לו superscription לקוראים תנר ולשונם superscription 2 quatrains) חרוץ super- 40); (חרב פיפיות <sup>88</sup>, בפרוע פרעות מסים וארגוניות לרופא כולל, מקבץ שדים ומפיהם גבורות ימלל, וכסף superscription for the reason הוולים אוסף שולל, ואל בית היין רץ וסובא חולל given in XX, 25 I cite these verses:

רופא לְכֹל־הַתַּחֲלואִים<sup>89</sup> בָּאתָ      אֵךְ שָׂא רְפוּאוֹת שָׂא מֵאֵד הַרְבִּית  
רופא אֵלִיל קֹסֶם קְסָמִים שְׂאֵלִי      אוֹב יִדְעוּנִי אֵת וְבֶם שָׁרִית  
אִשָּׁף וְכִשֵּׁף אִישׁ אֲשֶׁר נָחַשׁ יָנִי      חֵשׁ עֹנָנִים חֹבְרִים לָךְ כְּרִית<sup>90</sup>  
אוֹסֵף בְּכֶסֶף שׁוּדָדִים שָׁדִים וְנָדִי      בַּחַת לְמוֹלֶם בֵּית זָבוּל בְּנִית  
רֹאשׁ סוֹבָאִי יָנִי וְשֹׁכֵר זֹלְלִי      בְּשָׁר שְׁפוֹת הַסִּיר שְׁפוֹת<sup>91</sup> הָיִית  
תַּתֵּן בְּכֹס עֵינֶךָ וּנְבִהֶלֶת לְהוֹן      הִתְלַחֵל<sup>92</sup> לְכֹל־חֹלָה וְלֹא רָפֵאת  
אִם יִשְׁלֹאֵל יִרְךָ רָפָאָה נִפְשֶׁךָ      גַּם אֵת כַּחֲלִידֶךָ כְּבֹר חֲלִית.

<sup>87</sup> Catch-word: וְדִשִּׁב, but between this and the following half there is a lacuna.

<sup>88</sup> MS. פִּפִּית.

<sup>89</sup> MS. תַּחֲלואִים.

<sup>90</sup> Deut. 2.6.

<sup>91</sup> Ez. 24.3.

<sup>92</sup> Perhaps we should read הִתְלַחֵת (fem. for masc., just as in verse 7b: בָּאתָ).



41) superscription: למבהיל בהוניו, ומפיל תהנה לפניו, לרפאת  
:הולה גוסס, בדמיו ההבוסס

פֶּרְחִי כְּאַבְקֵךְ דָּק וּמֶךְ מְעֻרָּךְ חֶסֶד אֲשֶׁר תִּינַע בְּלֵב נֶפֶשׁ מָאֵד  
עָרַשׁ דָּוִי לַחֲזוֹת לְזֹאת אֵב רָם יְהִי מִגֵּן לְךָ וּשְׂכָרְךָ הִרְבֵּה מְאֹד<sup>93</sup>.

42) ליתום, (5 verses, superscription) לבן סורר ומשתרר ועורר  
הן עז (43); (אין בו מתום, סובא וזולל, ואביו ואמו מכה ומקלל  
לר' משה המתנבך על (5 quatrains, superscription) פניו  
שבט מוסר (44); (תלמידיו בפה, ולהכות ביד מתרפה, וחיתו עולפה  
(ועוד אמרתי (2 quatrains, superscription) אל תמנע שר  
וללמדם (3 verses, superscription) לבני יאודה למדה נא קסת (45)  
(8) את קול ננידי יענה זמיר (46); (ספר ומכחב, עליו התוית תי  
verses, superscription: מעשה ידי אמן  
ועוד אמרתי, ואחת משירותיו (47) superscription: (כידותון והימן  
and catch-word: מה; here also the manuscript has  
a lacuna.

XXVII. Fol. 140a—154b: By Solomon da-Piera and  
Vidal b. Labi:

1. Letter in rhymed prose, beg. ברנע קטון עזבתיך, signed:  
אחיך וידאל ה' בנבנשת.

2. כי (a), לאחר מן החברים שלח לי אישה קטנה מלאה יין  
וידאל ה' (rhymed prose, signed: שמחתי בארוחת יין רקחך  
(2 verses); in MS. Prague fol. 65a anonymously and the superscription before b).

3. ועוד בעת ההיא מענה לאחר מגדולי החברים הזהרנו  
בכתבו לעשות הישר והטוב ויסרני מלכת אחרי הבהורים ובית גאים  
beg. ספר חזון אמרי יושר להוכיח יסדתו, rhymed prose, without  
superscription; the author is Vidal or da-Piera.

4. בשם אדונינו הרב ואדון אדוני נרו' לק"ק טירואיל, letter  
in rhymed prose, beg. אילפים לראש הוגד לנו ושמענו comp.  
*Hebr. Bibl.*, XVI, 88.

<sup>93</sup> Comp. Gen. 15.1.



beg. לבי עלח כי קרבו ימך (47 verses, the rest is wanting).

16. יבנה נוה הדוה ודלתי שערו במעוז בריח הנהי בורח, remainder of a poem (61 verses), whose beginning is missing; end: שמשו בעוד המה באפלי לי לאור אף כי מאור יומם בלי זורח אחוקק. According to the following סימן, beg. דאבון נפשי בכפי amount to באפ"י (91 or 93). Concerning the author of this poem I am not able to make any definite statement.

XXVIII. Fol. 161a—167a: After various unessential notices by a more recent hand there follow letters exchanged between Abraham Shalom, Joseph di Trani, the brothers Joseph and Yomtob ibn Jaish and a number of their contemporaries:

1. Yomtob ibn Jaish to Abraham Shalom and Joseph di Trani, address: שרי קדש אלפי צבאות צבי ישראל משוש כל הארץ החכמים השלמים כמהר"ר אברהם וכמהר"ר יוסף נר"ו. Beginning of the letter: לבי סחרחר עזבני כחי בקוש' dated כי ראיתי אחרי רואי אחד מדברותיו. Yomtob speaks of the death of his father. In a postscript we read: בכתבו להר' שלמה משמיע שלום מבשר טוב כונתו רצויה אחרי הרנל בע"ה לשכון כבוד בארצנו היה לנו למשיב נפש כי מאז נעלה כבוד תהלתכם סר צלם מעלינו לא שלונו ולא שקטנו קפץ עלינו רנו של יוסף אשר כלנו ואשר דמה לנו.

2. The reply of Joseph Trani, superscription תשובת הרב כמהר"ר יוסף מטרנני נרו אל האחים הנאהבים ו' יעשים!) בפשע ארץ רבים צרתה, beg. וחתם בה כמהר"ר אברהם שלום נר' נשבת משושה.

3. The reply of Yomtob; beg.: היום ראינו מכתב אלדים, date: בקוש' יום ב' ו' לחמו השס"ו.

4. כתב הח' כמהר"ר חנניא ו' יקר ז"ל לח' כמהר"ר יוסף ו'.

כי אראה שמיכם <sup>95</sup> כעין נחשת מהמטיר טל נדבותם. beg. יעישו"ל

5. The reply of Joseph, address: שבילי לי' דנהירין beg. דשמיא הח' השלם לו תהלה דומיה כמה"ר חנניא בעיני יפלא. beg. (יהוסף ו' יעיש זלה"ה (!): rhymed prose, signed: מי נתן למשיסה).

6. כתב הח' כמה"ר י"ט ו' יעיש נרו' להח' כמה"ר אברהם. בשבתי על צי"ר beg. שלום נרו' ולכמה"ר יוסף מטראני נרו' הבשר נשרפו עצמותי מעי מעי רותחו לא יוכלו השקט מהספרו של אדם נכר נודע בשערים המצויינים בהלכה הח' השלם כמה"ר אלעזר ולהשמיע במרום קרשם איך. Notice is given: פסח זלה"ה קבלתי מהר' משה ירושלמי חמשים פרחי זהב ועל השאר לתתם. תוך חדש ימים אל הנביר כהר' משה גאון י"צ.

7. האנשים: a) Title: עוד להח' הנז' אל החכמים הנז'. י"ח (dated) גם היום מרי שיחי. letter, beg. (הרואים נסתרות תיקר נא נפשי ונפש תלמידיו הנאנחים: סיון השס"ו והנאנקים עיניו לנוכח יביטו מתי יבא יפוצו מעינותיו נהרי נחלי מדע והשכל ואצל מן הרוח אשר עליו רוח חכמה פי שנים להחיותם comp. above No. 1); c) Address: שרי קדש צבי צבאות. The letter was sent from Constantinople to Angora (מקו' לאנגורה).

8. חתימת הח' השלם מהר"י מטראני נרו' על אנרת בן מהר"י. Aramaic rhymed prose, beg. בר נש דאתי לקובליכי. בירב ז"ל (הצעיר יוסף signed: -לי periods rhyme in).

9. חתימה להאמת מנוי מזהירי<sup>96</sup> על השבועה, שנת השע"נ. beg. את אשר שבועה ירא. (rhymed prose, rhymes throughout in -גם; signed i. e. di Trani, the same holds true of all the other pieces entered below and signed with יוסף; most of the anonymous pieces, perhaps all of them, likewise belong to Trani).

10. חתימה אחרת על הישיש ר' משה ישראל. beg. אשר. הצעיר יוסף נרו' signed: חכמים ינידו.

<sup>95</sup> MS. שמיכם.

<sup>96</sup> MS. מזהירי.

11. האשה הזאת המסרכת. beg. כתב לאשה מורדת בבעלה. דרכיה, without superscription.

12. חתימה על חרם שהטילו שלא לתבוע ירושות שלא כתורה, beg. הצעיר: Aramaic, signed: כי היכי דנמטיין מכשורא. השנ"ט יוסף.

13. על הר' מרדכי בכה"ר אברהם אשכנזי על כתב חכמי. beg. כאשר שמע למצרים. rhymed prose, rhymes throughout in -ין; signed: יוסף.

14. Without superscription: a) Title: נר אלדים; b) אחוזו מתני חלחלה, ברקיע השמים, letter of consolation, rhymed prose, without superscription.

15. Without superscription: a) Title: נר אלדים; b) letter, beg. ברקיע השמים... כמה"ר חייא מלכא לעלמין חיי וזה הר' מנשה עשוק (from the contents: לקול האות הראשון בדם נפש... שליח ציון הח' כ"ר יחיאל אותם יום יום ידרוש למען ציון לא אהשה מהקריב כל הנדר ונדרבה ליד הה"ר אברהם פולאשטרו ובפרט הנדרבה של הק"ק רבעו מניה דמר ימהר יחישה מעשהו signed: יוסף).

16. תורת אלדיו על לבו חרושה, להר"י אספריאל. title: the letter is wanting; ומה שעשתה חכמה עטרה לראשה הח' נרו.

17. (rhymed prose); a) title: לובש בנדי ישע, להר"א כהן נרו. b) letter beg. זאת להודיע אל מעלת הדרתם באשר עתה מקרוב באו אלינו ההכמים שלוחי דרחמנא מעיר הקדש יצאו להחיש מפלט לעם היושב בה העמוסים מני בטן מק"ק צפת תו' ההכם השלם כמה"ר משה קשטלין ומירושלים יכוננה עליון זונה רבבן דשלהו מתם הח' הנעלה יחיאל מונטילי והח' הנעלה כה"ר without superscription. This letter forms an interesting contribution to the history of money collections for Palestine and also to the knowledge of conditions in the Holy Land at the beginning of the 17th century.

18. Superscription כהב, without signature, a letter to the two communities of Amsterdam concerning a heretic who is not to be identified with Uriel Acosta. I have noted the following: חיות קשה הונד לנו לקולה צללו שפתינו כי ימצא איש מבני ישראל בשם רופא יקרא חכם הוא בעיניו ונגד פניו נבון לחש וכצפוני<sup>97</sup> יפריש כנחשים אשר אין להם לחש בנאווה ובזו מטיח דברים כלפי רבותינו מקבלי הדת מיד ליד ומנאמן לנאמן<sup>98</sup> ובכתובי התורה אהר שרירות לבו ילך למלמדיו לא יטה און ונגד אבותיו שהורישו לו תורה ומצות יקשה ערפו ונגד זקניו רמו עיניו ועפעפיו ינשאו להעמיד חזון ולקיים הפרוש אשר בדה מלבו עוזב ארחות יושר וילך שובב בדרך לבו רועה זונות<sup>99</sup> זו הלכה נאה וזו אינה נאה מאבד הונה של תורה<sup>99</sup> ויפעת הדרה, אף כי על גדול המפרשים רבינו שלמה ז"ל הנדיל עקב בנאווה ובגודל לבב לאמר כי גם לו לבב כמוהו וכחזקתו נבה לבו לטהר את השרץ ולהתיר את האסור שנאסר ע"פ חכמי' תופשי התורה וכאלה רבות עמו... אמנם כי אתם עם ה' שני בתי ישראל קהלות הקדש אשר במשטרת<sup>99</sup> לכבוד ד' יוצרכם עמרו יקרים עמודו ומחיצת הכרם שנפרצה אומרים לכם נדורו...

19. Without superscription, and signature, letter of admonition from a father to his son, beg. אחר עיני הלך (rhymed prose, the periods rhymes in תת-ת).

20. כתבתי לקהלות הקדש שבאנדרנופולי, without signature, beg. יושבי על מדין והולכי דרך סלולה... ראשי ק"ק שבאנדרנופולי... בשבטי ישראל הודעתי נאמנה כי זה כשנתיים ימים בא לפני הנבון ומעולה כה"ר עובדיא ירחי י"א ובירו רצפה מכתב מחכמי שלומי אמוני ויניציא איך מינוהו שליח ליושבי טבריא תוב"ב והתהלך בגלילות האיטליא הקרובים והרחוקים וכי עלה דרך גבולם נתן דין וחשבון ישר לפניהם ולמען זאת חזרו ומינו אותו שלום לשוטט בארצות התורקיא ומסרו בידו פנקס של חמשים דף בחתימת כ"ר יוסף פאדרו ז"ל; also this letter is interesting for the history of the כולל collections.

<sup>97</sup> MS. וכצפוני.

<sup>98</sup> Comp. Talmud of Jerusalem, Megilla, I, 9.

<sup>99</sup> Comp. b. Erubin 64a.

לאנדירנפולי על הח' כמה"ר יחיאל רננו עליו על נדבת. 21. עמודי שמים וחילם כברקים ירוצצו. beg, ההקדש אשר שם בכליו (the writer of the letter defends the accused and mentions: על דברת בני האדם הרחיבו פה... על הח' כמה"ר יחיאל מונטילין; גרו' על מנבת ביקור חולים שנבה זה כמה שנים... without signature).

והשתא דנבה. beg, כתב להח' הר' משה סאניש נרו'. 22. יוסף; signed: טוני בין.

23. Without superscription and signature, a) title: 'יועץ פלא וחכם חרשים... הח' השלם כמה"ר יצחק נרו'; b) letter beg. הח' הנעלה הר' (recommended is שר צבא ר' עתה באתי. beg. צמח... אשר נתנורר פה אתנו... כי כן זה דרכו בהיותו על ארמת... (הקדש היא חברון).

24. להחכמה"ר יוסף נרו' על ק"ק עליון שהלכו להתפלל. שמעה אזני וחבן עתה מקרוב קרא ערער שם בברושה. beg, בת"ת... והנה הח' השלם כמה"ר משה. Mentioned is הצעיר יוסף; signed: נרו' ידעתי מאוהבי שם תהלחו...

25. Without superscription, a) title: נחל נובע מקור; b) letter, beg. נחל... הח' השלם כמה"ר משה נרו'... ומח נס עתה הצעיר יוסף; signed: לימים ראשונים אותותיו אותות כבא הבן יקיר אברהם יצו'... מה יקר חסדך בעשותך נוראות חסד לאברהם... ובמקום אשר עמדתי שם שאלוניקי יע"א גרסה נפשי לתאבה להשתעשע עם מכ"ת... ואם היו פני מועדות לשוב אל מקומי ידרוש נא כיום c) The following I consider as postscript: את שלום תורת החכם השלם נור הקדש כהר' יום טוב אלבעלי; d) לבני יצו' e) להרמ"ק.

26. 'יען משח ר' אותך. letter beg. להר"י פרוניציפאל. without signature.

27. Title: עם מרעיתו וצאן ידו... הח' המופלא כמה"ר; the letter pertaining thereto is wanting. שמואל נרו'.

28. אוהב ורוע לעתות כאל. letter, beg. להר' שלמה נרו'. without signature. ימצא.

29. לבלין מק"ק מרדכי ר' אל האלופ ר', letter in rhymed prose, beg. נודע ביאודה עוזו ונפלאותיו. signed: הצעיר יוסף. Noted is: וע"י האח נפשנו החכם השלם בנן של קדושים נרו' אשר תמיד יעלה פיו תהלתו כתבתי אנרת קטנה בשלחי הספרים אם חמשים מחן טוב עם כר' משה Abraham's חן טוב (Ven. 1605)?

30. Without superscription, a) title: נר אלדים... איש אל ירד ואל יוכה איש. signed: הצעיר יוסף; b) letter, beg. כמהר' חייא נרו' אם החכם הר"מ גם פה. c) postscript: לא עשה מאומה אל יתמה החפץ....

31. Without superscription, a) title: דזיו ל' כבר. signed: כי אעבור בסך ימים. b) letter, beg. בתיא... כמה"ר משה נרו' יוצרו, breaks off after the first five lines.<sup>100</sup>

<sup>100</sup> Note: 14, 17, 47, 55, 58, 82, 75, 79, 73, and 85 were added by Dr. Israel Davidson, who read the proofs at the request of the author.



## A POSTHUMOUS CHANGE OF NAME

(BIRKENTHAL NOT BOLECHOWER)

IN No. 1, vol. XII, of this REVIEW Dr. Vishnitzer published some details concerning a diary of a Polish Jew who lived and wrought during the second half of the eighteenth century. Since I have previously edited a great part of another work by the same author, I feel myself obliged to object to a posthumous change of the name of the author.

This is how the matter stands:

In the early part of 1911 I found in the library of the well-known leader of the Haskalah movement in Galicia, Joseph Perl, a manuscript entitled *Dibre Binah*. The work, composing 329 pages small octavo, deals with the history of pseudo-Messiahs in Israel. Excepting the story of the Frankists, which the author knew partly from his own observation, and other interspersed personal experiences, it does not call for publication. The author of the work, as appears from the title-page, from passages in the book itself, and from attached letters, is Reb Dob Ber Brezower properly Birkenthal, who lived in Bolechow in Galicia and died there in 1805 at an advanced age. In order to get exact data concerning the two names I instituted an inquiry in Bolechow and I found out that as late as 1850 a family by the name of Birkenthal was still domiciled there, called commonly "Brezower". Moreover, Reb Dob Ber is entered in the book of the *Hebra Qadisha* under the name Birkenthal. Birkenthal is a Germanization of Brezower (*Birke* = *bereza* in Ukrainian) and goes back to the regulation of Jewish family names under Joseph II. There is therefore no doubt concerning the name: until the middle of the eighties of the eighteenth century exclusively Brezower, later officially Birkenthal.

Unfortunately the family name does not occur in the diary which found its way to London. Dr. Marmorstein, who in 1913 first published a bibliographical notice about it, therefore called the author "Bolechower" after his native place. When Dr. Vishnitzer in 1918 or 1919 undertook the elaboration of this diary and drew the public attention to its

importance, my biography of Birkenthal and part of the *Dibre Binah* had already been printed in *Hashiloah*. Nevertheless he preferred to continue Marmorstein's error and furnish the author with a posthumous name. He did the same in an article in *Der Jude*, although he should have been aware that the author was never known by this name to his contemporaries.

Why should Dr. Vishnitzer state that the diarist was named "Bolechower or Birkenthal" and then call him Bolechower throughout the article? Where is the evidence for the name Bolechower? To be sure, names are unessential, but one must not deal arbitrarily with the name of a deserving man, even if that man has been dead 120 years. Dr. Vishnitzer will cause confusion if he does not edit the diary under the name Birkenthal. For in such case two works by the same author will be known under two different names. Surely the author has a right to have his name on the title-page.

Jerusalem.

A. J. BRAWER.

## NOTE ON SOME NAMES IN A MS. IN THE BRITISH MUSEUM.

IN describing the (probably) unique treatise on the quadrature of the circle by Alfonso (No. 1002, VI in Vol. III. of the Catalogue: Add. 26984) Margoliouth says: "Besides references to such well-known authorities as Archimedes, Aristotle Plato, Euclid, Ibn Rushd, Ali b. Ridwan, &c., a number of out of the way authorities are mentioned." Margoliouth then proceeds to quote these authorities in the form they appear in the MS. without giving their equivalents. As these forms of the names may puzzle readers (as they have apparently puzzled Margoliouth) I here attempt their solution:

**פרס** is Bryso of Heraclea, a mathematician of the 5th. cent. B. C.

**אנטיפרס** is Antipho (circ. 420 B. C.). Both Bryso and Antipho are known to have grappled with the problem of squaring the circle.

**דמירטש** is Democritus of Abdera who succeeded Leucippus as the head of the Atomistic school in Thrace.

**לוקש** is (probably) Leucippus<sup>1</sup> mentioned above.

**אלנרזי** is Fadl ibn Hatim al-Nairizi, the famous commentator of Euclid. (For help in reference to this name I am indebted to my friend and colleague Mr. A. S. Fulton, of the Oriental Department in the British Museum.)

**סנבילקיוס** is Simplicius of Cilicia, one of the last of the Neo-Platonists.

**קנפאנו** is of course Giovanni Campano (Campanus) of Paris, who flourished in the thirteenth century.

London

J. LEVEEN.

<sup>1</sup> From the fact that **לוקש** is coupled with **דמירטש** it seems probable that Leucippus is referred to.

## THE GAONIC COMMENTARY TO TEHAROT<sup>1</sup>

IN 1856 there appeared for the first time a so-called Commentary on the sixth Order of the Mishnah, i.e., the section *Teharot* (פרוש על סדר טהרות). The term "commentary" is not to be taken literally, as the work does not in any way comment upon the contents of the Mishnah, but merely intends to serve as a dictionary for the foreign words (Arabic, Syriac, Persian, Greek), which are particularly numerous in all the tracts of this Mishnic section. The work, though small in size, covering only 45 pages in the printed edition, is of very great philological importance. Its author shows a marvelous familiarity with the aforementioned languages and their different dialects as they were used in his time in various provinces of the Orient. The editor, J. Rosenberg, unfamiliar with any of these languages, made no attempt to identify and to explain the many hundreds of words quoted and discussed by the author. He merely published a copy of a manuscript with all the mistakes and peculiarities of spelling, which present great difficulties even to the most learned Orientalists. This text was reprinted with many additional mistakes in the Wilna edition of the Talmud and later also at the end of the Mishnayot published by the famous printing establishment of Romm (Wilna 1908).

The oldest German and French commentators of the Talmud, as R. Gershom of Mayence, Rashi, his grandson Samuel B. Meir, and others attribute the Commentary explicitly to Hai, the last Gaon of Pumbedita (died 1038). Modern scholars, with a few exceptions, follow this view. Of late, however, the ascription to Hai Gaon has been subjected to serious doubts. Dr. J. N. Epstein, who during recent years has done valuable research work in the literature of the Geonim, now submits this Commentary to a very minute investigation, examining its content and composition from every possible point of view. The first chapter (pp. 1-36) is devoted to the much mooted question of authorship. Adducing numerous quotations of the Commentary as they appear in the works

<sup>1</sup> *Freie kritische Fäuleitung zu dem R. Hai Gaon zugeschriebenen Kommentar*. Von Dr. J. N. EPSTEIN. Berlin: MAYER & MÜLLER, 1915. pp. VI + 160.

of later authors, especially in the *'Uṣul* of Jonah Ibn Janah (992-1052) and the *Aruk* of Nathan B. Jehiel of Rome (concluded in 1101), he proves conclusively that the Commentary cannot possibly be the work of Hai Gaon and expresses the opinion that its author is none other than Saadia, the famous Gaon of Sura. The reasons against the ascription to Hai are: explanations of words given by Hai in his *Responsa* and elsewhere or quoted in works of later authors contradict those found in the Commentary or are missing therein entirely; Hai had no knowledge of Greek and, as he himself states, never saw the Palestinian Targum, both of which are often quoted in the Commentary; the author of the latter shows the most intimate acquaintance with the life, conditions, and customs of the population of Palestine, which is inexplicable in the Babylonian Hai, who, as some of his statements suggest, never was in Palestine; and, finally, the author repeatedly quotes as sources the earlier Geonim of Sura, but never those of Pumbedita, the seat of Hai Gaon. Now these very reasons that speak against the attribution of the Commentary to Hai strongly recommend Saadia's authorship. By a correct restoration of a marginal gloss which crept into the text Dr. Epstein (p. 30) is in a position to prove that the early redactor of the Commentary likewise names Saadia explicitly as the author of the work. Moreover, there is sufficient evidence throughout the Commentary for Saadia's authorship.

Having thus disposed of the question of authorship, Dr. Epstein gives a general characterization of the work (pp. 36-74), showing the author's method and procedure in treating his subject, his mastery of numerous Oriental dialects from which he derives his lexical explanations, and the wide range of his knowledge of the literature of his time. Here I should like to remark that in pointing out the characteristic features of the Commentary, Dr. Epstein does not sufficiently emphasize the fact, though he mentions it occasionally, that these same features are commonly recognized as peculiar characteristics of Saadia's numerous writings and hence greatly strengthen the view that he is the author also of the Commentary in question. Thus for instance the author's rationalistic explanations of Mishnic passages in opposition to explanations of the Talmud, his repeated efforts to find parallels for difficult words in the Bible and the Targumim, his habit of explaining Hebrew or Aramaic words by Arabic words of similar sounds, his fondness for alliterations, often taking flights into the realm of poetry, as well as some other pecu-

liarities of style—have long been recognized as outstanding features in the works of Saadia. Dr. Epstein might therefore have stressed these points in favor of Saadia's authorship. It should further be observed that in view of these facts the objection to the attribution of the Commentary to Saadia on the ground that the Gaon wrote nearly all his works in Arabic, while this Commentary seems to have been written by him originally in Hebrew, is of little weight. We do not know the circumstances that may have induced him to deviate in this instance from his usual habit of writing his books in the vernacular.

It would require too much space to give an adequate account of Dr. Epstein's admirable industry and profound learning, as displayed throughout the pages of this book, but special mention must be made of chapter III (pp. 74–98), containing a detailed examination of the sources used by the author of the Commentary, and chapter IV (pp. 98–112) in which Dr. Epstein gives a minute critical analysis of the entire text, showing the extent to which a later redactor changed and amplified the original work.

Of great importance is chapter V (pp. 112–130), wherein Dr. Epstein traces with great accuracy and thoroughness all the direct or indirect citations from the Commentary in the works of later authors, as Nissim and Hananel of Kairwan, Nathan b. Jehiel of Rome, in whose *Aruk* he points out over 550 passages taken from the Commentary, Maimonides and others down to the 14th century, when all traces of the Commentary disappeared to be brought to light again in recent times. In chapter VI (pp. 130–131) it is briefly proved that the author of the Commentary had composed a similar Commentary on the first Order of the Mishnah (Zeraim), which, however, is no longer in existence. Passages therefrom are quoted in the Commentary before us and in the *Aruk*. Dr. Epstein then devotes a whole chapter (pp. 131–148) to a minute description of the numerous manuscripts of the Commentary as well as of the *Aruk* upon which he has based his study. Of real philological importance is also chapter VIII (pp. 148–151), in which all the orthographic peculiarities in the transliteration of foreign words into Hebrew are pointed out. Two appendices (on the original title of the Commentary and on a commentary on the Mishnah by Hai Gaon, now lost) and some additions and corrections conclude Dr. Epstein's work, which, it may unhesitatingly be said, is the most learned publication within recent years in the field of Gaonic literature. All the more regrettable it is that a work like

this should have been so carelessly edited. On nearly every page of the book one finds the phrases "siehe oben" and "siehe unten", intended to serve as cross-references. I have counted 133 of such references and some may have escaped my notice. Very often such an "oben" or "unten" means from 50 to 100 pages above or below (e.g., p. 48, note, "unten" refers to p. 128; p. 70 to 130; 96 to 142, while "oben" on pp. 141, 153, 154 alludes to pp. 30, 19, 30, respectively). As the book is composed of many thousands of philological details and has no index, it follows that the reader, in order to get the full benefit of the work, has to learn its contents by heart. Names of authors and titles of books are likewise quoted in a haphazard way, as Bernstein (pp. 27, 32, twice, 49) for Bornstein (well-known Hebrew writer on calendar and chronology), Schor (4, 26) for Schorr, S. Frankel (125, 130) for Z. Frankel, Eknin (55) for 'Aknin, Jahuda (67, 68) for Yahuda. Ginzberg's *Geonica* is quoted as "The Geonim" (p. 3), Saadia's Oeuvres is "ouvres" (p. 10), Saadyana (Schechter) is Saadiana (32), and so forth. Misprints are too numerous to be pointed out, especially in references to sources, so that it is not always possible to verify them. "Ausbesserung" (p. 131) means mending (clothes), read "Verbesserung" (correction of mistakes); for Homoteleuton (p. 134) read Homoioteleuton. רב'ק' (p. 31) occurs also in Saadia's *Amanat*, p. 28, 1.14; p. 30, 11.7, 13, read 'Uksin, I, 5.

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HENRY MALTER.

## SANITATION IN PALESTINE<sup>1</sup>

THE Committee appointed by the Zionist Organization to study the subject has submitted a series of comprehensive and detailed reports upon the present and future needs of the Public Health Service of Palestine, with special reference to the conditions to be anticipated in view of the prospective influx of immigrants of various social conditions and from various lands.

The preface states that "the recommendations submitted lie in the line betwixt 'needful' and 'possible'. The authors know the Orient. They have gained their experience thereof in practical work." Upon this experience, fused with knowledge of scientific principles and methods, and with special consideration of the new problems raised by the results of the war, such as the Jewish migrations and the actual conditions in Palestine, their reports are based.

This is not the place for technical comment. It is quite possible that some of the suggestions made are open to modification from a theoretical viewpoint, and it is almost certain—more's the pity—that practical obstacles will prevent many of them from being carried out. It may be said, however, that every one of the reports exhibits first hand acquaintance with the situation; wide knowledge of the fundamentals of modern sanitary practice; full sympathy with the peculiar needs of all strata of the population, present and anticipated; recognition of the magnitude and complexity of the problems involved; insistence upon certain stern necessities that, for the sake of the general welfare, may require the suppression of pity for individual unfortunates—yet even in this, a humane appreciation of the human elements involved, that is too often absent from the administration of immigration laws. With proper regard for authority and discipline there is conjoined a whole-some impatience with bureaucratic complexities and futilities.

<sup>1</sup> *Aufgaben und Organisation des Sanitätsdienstes in Palästina. Gutachten dem Zionistischen Aktionskomitee erstattet von THEODOR ZLOTIST, RICHARD MICHEL, W. BRUNN, A. SANDLER, E. AUERBACH, Regierungsbaumeister ALEX. BAERWALD.* Berlin: Juedischer Verlag, 1920. pp. 268.



We can most heartily commend the study as a whole, and in its particulars, to the very serious consideration of the Palestinian government, and of all persons and associations concerned for the upbuilding of the Holy Land. It not only presents a clear view of present failings and future dangers—both those peculiar to the land and its peoples, and those common to human settlements everywhere—but its plans for the correction of existing evils, for the organization of a ministry of public health, and for the establishment and development of hospitals and allied institutions, are well thought out. It notes also the economic, agricultural, industrial, and educational factors of the health-problem.

Dr. Zlocisti's report deals with Immigration-hygiene, and has an appendix, with plans for quarantine stations, by Sanitary Engineer Michel. Dr. Brunn considers measures for the control of infectious diseases, and the best form of organization for the Palestinian Public Health Service. Dr. Standler treats of Sanatoria and Health-resorts. Dr. Auerbach's study of general hospitals has an illustrated appendix by State Architect Baerwald upon the architectural problems of hospitals and health stations in the coast and interior cities, and in the villages and colonies of Palestine.

Arabian investigators and scholars kept alight the torch of medical science amid "the darkness of the Gothic mediaeval night"; and from them Jews, as well as Christians, learned much. But the Arabs have not held their place as world-teachers. Through their centuries of neglect, Palestine has become a horror of insanitation. Modern medicine, however, is deeply in debt to Jewish research-workers and authors. Hygiene is peculiarly a field in which, since the day of Moses, if not earlier, "the children of Israel" have excelled. Great Britain, for example, owes much of its sanitary progress to two moderns of Jewish blood—Benjamin Disraeli, whose constant iteration and reiteration of "*sanitas, sanitas, omnia sanitas*," was neither a mere witticism nor empty lip service, but found concrete expression in laws and institutions; and Benjamin Ward Richardson, a genius in public health propaganda and organization. It would be worse than a tragedy, it would be an inefaceable shame, if Palestine under a British mandate and Jewish aid in its administration, should not be restored to the domain of advanced sanitation through an adequate and progressive health service, clothed with ample authority and provided with abundant means.

All the reports before us lay stress upon the need for money—indeed they go into quite detailed calculations on the subject. The total sum required is, however, by no means unattainable, and if the Palestinian government cannot furnish it, the Jews of the world can and should. Moreover Jewry can and will, if given opportunity, provide men able to carry out the work, and zealous to accomplish it—witness this well-grounded, thorough, far-seeing and practical report of the Zionist Committee.

Philadelphia

SOLOMON SOLIS COHEN.

## SCHOLASTIC PHILOSOPHY

IN 1879 Pope Leo XIII issued an Encyclical entitled from its initial words, "Aeterni Patris." It is an extremely important document. There he points out that it is the proper function of the Roman Pontiff to see to it that the Catholic faith is kept free from error. And inasmuch as men's minds are often led astray by false philosophy, the highest shepherds of the Christian flock have always taken care to see that all human disciplines should be taught to the faithful in accord with the norm of the Catholic faith, especially so *philosophy* upon which depends to a great extent the correct interpretation of the other sciences. The present time, he continues, demands a new reminder and a renewed consideration of the matter of philosophical studies.

If one examines carefully two evils, public and private, of the present age, Pope Leo tells us, he will find that a fruitful cause is an erroneous philosophy concerning things human and divine, which has found its way into all ranks of society. And as man is by nature prone to follow in his conduct the guidance of reason, it follows that if his understanding is in error his will will follow suit. To be sure philosophy is not everything. It is not all-powerful for good any more than it is irresistible for evil. The help of God must be sought above all. Nevertheless human and rational means must not be neglected. And among these human aids is a true philosophy.

Philosophy if properly used paves the way for the true faith and prepares the mind of the pupil to receive the words of revelation. For many of the teachings of revelation were discovered also by the ancient philosophers by the sole aid of the reason, hence reason testifies to the truths of revelation. This is the symbolical meaning of the command that was given to the Israelites in Egypt on the eve of their departure from that land that they should borrow vessels of silver and of gold and raiments from the Egyptians. This symbolizes the use that should be

<sup>1</sup> *Philosophia Scholastica ad mentem Sancti Thomae*. R. P. SEB. UCCELLO S. S. S. Tomus I, Logica, Ontologia, Cosmologia. Tomus II, Psychologia, Theodicea, Ethica. Augustae Taurinorum MCMXXI. pp. xx, 411, 459.

made of philosophy for the benefit of the true faith. This is nothing new; the Fathers of the Church followed the practice.

More specifically philosophy demonstrates the existence of God. It also shows that God is wisdom, justice and truth. Philosophy must be cultivated diligently in order that by its help sacred theology may assume the character of a science. Philosophy lends clearness to some extent even to the mysteries of the faith which cannot be strictly demonstrated. It helps also in resisting the attacks on religion on the part of unbelievers. In order, however, to be able to accomplish all these things and be of service to religion, philosophy must be humble and confine itself to its proper sphere and in the manner of a handmaiden attend upon the revealed doctrines and confirm them by reason. All that has been said so far is confirmed by a study of the history of philosophy. The greatest of the ancient philosophers erred in their opinions because they had not the benefit of revealed religion. But the Fathers of the Church combined the philosophical method with Christian revelation to the great benefit of the latter. The same was done by the Doctors of the Middle Ages who are called Scholastics. And among them the greatest is Thomas Aquinas, who summed up in his inimitable writings all that had been done before. There is not a part of philosophy which he has not treated with acumen and solidity—the laws of ratiocination, God and the incorporeal substances, man and the other sensible things, human acts and their principles—all these things he discusses, with a fulness, order, conclusive force and perspicuity which cannot be equalled. Moreover, his arguments are based upon broad principles which carry within them the seed of an infinite number of truths to be opened in the course of time as opportunity offers by subsequent teachers with great benefit. His refutation of the errors of his predecessors can very readily be applied to the errors of the present and the future. This is the reason why in past times the most distinguished theologians and philosophers hung upon his words and regarded it almost a sin to depart from his teachings. Not merely his fellow members of the Dominican Order, but the Benedictines, the Carmelites, the Augustinians, the Jesuits and the other sacred orders followed St. Thomas. The Popes, too, lavished praise upon the doctrine of St. Thomas—Clement VI, Nicholas V, Benedict XIII, Pius V, Clement XII, Urban V, Innocent XII, Benedict XIV, Innocent VI. And what is more, Thomas is quoted as an authority on various things at the Oecumenical Councils, and the Fathers of the Tri-

dentine Council place Aquinas's *Summa* on the same plane with the codices of the divine Scriptures and the decrees of the greatest Pontiffs, as a source of truth. The opponents even of the Catholic doctrine sing the praises of the Angelic doctor.

Since the sixteenth century, however, a new order in philosophy has taken the place of Scholasticism. Everybody claims the freedom to philosophize without restraint. Many and various philosophies have arisen as a result, more than is right. The variety of opinions on the most important matters led to doubt and scepticism and thus easily to error. This contagion has spread among Catholics also who are led by the instinct of imitation and the allurements of novelty to the detriment of true science.

For all these reasons it is the desire of the Pope that efforts should be made by the Church to restore Aquinas to the place of honor which he formerly occupied and which is his due. This may be accomplished in the following way. Since the Christian faith is being attacked in our day in the name of a fallacious science, it is necessary that all young men and especially those who have hopes of serving the Church should be nurtured in the true doctrine of St. Thomas so that they may be armed to defend their religion and answer all questions. Those who, pretending to be guided by reason alone, have abandoned the Catholic Church and have become its opponents, can best be brought back, if at all, by the arguments of the Scholastic philosophy. The ills of society, civil and political, can best be cured if people can be made to lend an ear to the ideas of Thomas Aquinas concerning the true nature of liberty, the origin of authority, the force of laws, the authority of government, and so on. All human knowledge will be the beneficiary if we have a true philosophy that is generally cultivated. This does not mean that every statement of Thomas Aquinas shall be regarded as gospel truth even though it has been proved untrue by modern science. The motto should rather be "*vetera novis augere*," to add the new to the old, to adopt as much of the old as is compatible with what is indubitably true in the new.

In 1914, Pope Pius X, the successor of Leo, re-affirmed the advice of his predecessor.

The book under review is one of the very many evidences of the effect of the Papal Encyclical on the Catholic priesthood and scholarship. It would not serve any purpose to summarize here the comprehen-

sive contents of the two volumes before us. It would require a considerably lengthy review, and a technical one to boot. For the work of Uccello is no less than a presentation for school use of the entire philosophy of Thomas Aquinas. It goes even beyond the explicit teachings of St. Thomas, when it is necessary to take an attitude towards the various modern philosophies of Kant or Comte or Bergson. The development of the Thomistic philosophy in the hands of such men as Suarez is taken account of when it is necessary to expound in the spirit of Thomas Aquinas matters which the latter passed over in silence or very briefly. The author rejects Darwin's theory of evolution, and most of the modern social and political and legal theories. He is in complete accord with the ideas of the Papal Encyclical and the book is intended to be covered in a three-year course, thus giving the Catholic student a complete philosophy from the orthodox Catholic point of view.

Whatever one may think of the value of the philosophy presented in this book one must admire the courage of the Catholic Church. It has the courage of its convictions and goes about planfully and systematically in realizing the Catholic mind not merely by means of a catechism for the very young but by a systematic philosophy for the mature. Judaism has not attempted any such thing. The Synagogue and the Sunday School inculcate certain principles and feelings in the young. The schools and the seminaries impart a certain amount of information. But a systematic Jewish philosophy does not exist. We have no Thomas Aquinas. Maimonides does not occupy that place, and no one dreams of giving him such a place. All the scholarly work that has been done by Jews in connection with Jewish philosophy of the Middle Ages has been in the nature of antiquarian research, and as such it has been received by the public. Many leading Jews seem to avoid deliberately a philosophic examination of the roots of Judaism and a relating of them to modern intellectual and social movements. The Jews have no Pope. But even a Pope is powerless if not supported by an intelligent and learned laity. The dearth below is even greater than that above.

ISAAC HUSIK.

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## KRAUSS' WIENER GESERAH<sup>1</sup>

THIS volume will be welcomed as another notable contribution to Jewish history from the pen of Samuel Krauss. Though narrower in scope than his recent Byzantine-Jewish historical studies, this book, like the former, is noted for the manner in which the rabbinic erudition of the author is applied to historical investigation, and particularly for its complete utilization of the rabbinic responsa.

The motive of the book is noteworthy. For the volume was conceived and written by the author as a semi-millennial memorial to the Jewish martyrs of Vienna, who five hundred years ago, in 1420-21, suffered expulsion and were burned at the stake by the decree, or *Geserah*, of Duke Albert of Austria. This tragic theme is rendered doubly sad as the author is visibly weighed down by the contemporary sufferings of his people in the same territory during the present world distress which is felt so acutely in the one-time gay capital of Austria. Even the exterior of the work, its wretched paper, the want of illustrations in a subject that should properly be replete with illustrations, and its generally unattractive outer form betray the want and poverty of the conditions under which the author labored, as he frankly states in his melancholy preface.

These external wants are felt the less, however, as the book, despite its memorial character, was not intended to suit the popular taste. The serious historical student is more than compensated by the wide range of the book, and by the abundance of detailed facts which render it a mine of information relating to the men of letters and the social and intellectual life of Austrian Jewish communities in the fourteenth and fifteenth centuries. And though the matter is at times diffuse, and some of the facts are not always relevant to the main theme, they will also be gratefully received by the investigator if only as gratuitous gifts.

For the contents of the book are not narrowly limited to the *Geserah*, or edict of expulsion, as the title would seem to indicate. The vol-

<sup>1</sup> *Die Wiener Geserah vom Jahre 1421.* Von SAMUEL KRAUSS. Wien und Leipzig, WILHELM BRAUMUELLER, 1920. PP. XII, 264.

time may be aptly described as a study of the political life, the social conditions, and the literary figures of Austrian Jewry in the first quarter of the fifteenth century. The technical aspects of the communal organization of the Jews in Vienna and the surrounding cities, the economic hardships and restrictions under which Jewish artisans and merchants were compelled to labor, the arbitrary tyranny of the outer government, which was combined with a measure of real inner autonomy, the staggering burden of taxes, levies, and imposts of every description, and the problems related to their collection and administration, all these subjects are comprehended, and treated unevenly, it must be confessed, with numerous digressions on incidental themes.

The latter indeed are striking in their variety. They cover, for instance, minor biographical notes about the leading rabbis of the times or topographical details about Vienna and the neighboring cities, or curious oddities concerning Jewish names. Sometimes, however, as under the subject of conflagrations, they bring to light vital facts, which lay bare the tragedy of mediaeval Jewry, reproducing the cloud of suspicion, and the vindictive hatred of the populace, which reduced the Jews to a state of helplessness, bordering on fatalism.

It would indeed appear as if all the sinister forces of mediaevalism conspired in the early fifteenth century to bring about the final catastrophe; and to the chief of these elements Krauss devotes a learned chapter. Thus the author is led to treat of the Hussite wars in their relation to the Jews, who were wantonly accused of complicity with the Hussite enemy at whose very hands the Jews were suffering torture. The chapters on the desecration of the host and the blood accusation, which also are treated in relation to the Geserah, form interesting contributions to the study of these mental aberrations of Mediaeval Christendom.

Dr. Krauss has therefore added to his works an important historical monograph of varied interest. The wide compass of the book, however, is also its essential weakness; for the treatment becomes inevitably diffuse. There is a lack of definiteness felt throughout the work, and strange to say, it is most pronounced in the treatment of the rabbis and the rabbinate. One looks in vain for a serious, well-balanced appreciation of either the learning, the works, or the personalities, of the great rabbis of the time. As to the institution of the Bet-Din, which was of



focal importance in mediaeval Jewry, it is almost entirely overlooked. These shortcomings, however, while serious, cannot blur the positive merits of the book, which is an important contribution to Jewish, as well as general Mediaeval history. It is fair to state that the work is not only worthy of the great scholarship of the author; it is, above all, a beautifully pious tribute to the memory of Jewish martyrdom.

Dropsie College.

ABRAHAM A. NEUMAN.

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## THE JEWISH LAW OF AGENCY

By ISRAEL HERBERT LEVINTHAL, Brooklyn, N. Y.

### INTRODUCTION

THE JEWISH people have been credited by the world with having contributed more than any other people in the domain of Religion and Religious Morality. Even the most stubborn of our opponents admit that Religion would not have been the force and the power in civilization that it is were it not for the Jew. Few, however, know how much the Jew has contributed to other fields in the realm of human progress. To Rome is given unstinted praise for her legal system and for her influence upon juristic development. No text-book on any legal topic fails to pay homage to Rome for her contribution in the field of law. That she deserves most of this praise, no one will doubt. But that the Jew is deserving of more credit than he receives for his contribution in the field of law, is realized by only a few.

When one delves in the pages of the Talmud and glimpses in the works of the later rabbis, he marvels at the fine legal insight possessed by these ancient sages; and at times he would almost be led to believe that he is studying the laws of some modern and highly developed code. Nay, more, he would begin to ask himself: Is it possible that this ancient collection of laws, that are so in consonance with the modern juristic spirit, should have had no influence upon the systems of law that rule the peoples of to-day? He would then, undoubtedly, come to the conclusion reached by President Woodrow Wilson when he said, in his treatise on the State: "It would be a mistake, however,

to ascribe to Roman legal conceptions an undivided sway over the development of law and institutions during the Middle Ages. The Teuton came under the influence, not of Rome only, but also of Christianity; and through the Church there entered into Europe a potent leaven of Judaic thought. The laws of Moses as well as the laws of Rome contributed suggestion and impulse to the men and institutions which were to prepare the modern world; and if we could but have the eyes to see the subtle elements of thought which constitute the gross substance of our present habit, both as regards the sphere of private life, and as regards the action of the state, we should easily discover how much besides religion we owe to the Jew".<sup>1</sup>

It is true that all ancient peoples have developed certain systems of law, and in fact many are the laws that are found to be similar among them. The eminent scholar and father of the study of Comparative Law, Josef Kohler, has even gone so far as to say: "The more we proceed in our study of humanity the clearer and the more evident it becomes to us that the whole human family, despite national peculiarities, are actuated not only by similar instincts and desires, but especially in law and in the development of public institutions, they show the influence of similar cultural forces."<sup>2</sup> But the more we study ancient law, the more we come to the conclusion that in no other system has law so much in common with the modern development, and nowhere are the true grounds and reasons of law so well declared as in the jurisprudence of the Jew.

The study of Jewish law is important not only because of its essentially modern conception of human relationship, but also because by means of this study we get the clearest insight into the unconquerable spirit of the

<sup>1</sup> Section 220.

<sup>2</sup> "Ueber die Methode der Rechtsvergleichung," in Gruenhut's *Zeitschr.*, Vol. XXVIII, p. 273.

Jewish people. He who would endeavor to comprehend and to appreciate the national life of the Jew, he who wants to understand the spirit which helped to create his divine literature, must first become acquainted with the foundation, the groundwork upon which such a life was reared. This foundation and ground-work is not, as in the case of other peoples, to be found in their land, but in the law of Israel.<sup>3</sup>

### THE DISTINCTIVENESS OF JEWISH LAW

What impresses the student of Jewish law, even more than its similarity to the latest modern systems, is the humane spirit that permeates the entire body of the law. To do justice is the very purpose of all law, but justice itself, if carried to extremes, may sometimes result in injustice. Jewish law endeavors to be humane as well as just, and, therefore, takes cognizance of the human element in all human relationship. And it is this humane element that strikes a distinctive note and makes its strongest appeal even to the non-Jewish student.<sup>4</sup> Perhaps this is due to the fact that among the Jews the distinction between religious and secular law was not known.<sup>5</sup> The division by scholars of the Mosaic and rabbinic legislation into moral, ritual, and legal laws is wholly arbitrary.<sup>6</sup> In fact the religious element plays a very important rôle in all ancient nature peoples and permeates every phase of their life. "Law and religion are to them one and the same thing. Indeed law is but one of the many forms by means of which their religious ideas are put into effect."<sup>7</sup> In the

<sup>3</sup> cf. J. L. Saalschütz, *Das Mosaische Recht*, Berlin, 1853, p. 13.

<sup>4</sup> cf. Dr. Josef Kohler's Introduction to *Der Talmud und sein Recht*, by Dr. Mordeche W. Rapaport, Berlin, 1912, p. 4: "Besonders wohlthuend aber wirkt die Humanität des jüdischen Rechts."

<sup>5</sup> Roman law does make this distinction in Jus and Fas, cf. Leopold Wenger, *Das Recht der Griechen und Römer*, p. 184; R. Sohm, *The Institutes*, 3d ed., p. 22, note 2.

<sup>6</sup> Cf. Nathan Isaacs, *The Law and the Law of Change*, p. 4.

<sup>7</sup> Cf. J. Kohler, *Die Anfänge des Rechts und das Recht der Primitiven Völker*, in *Allgemeine Rechtsgeschichte*, p. 3.

case of the Jew, however, his religion not only influenced his law, but permeated its very structure. His law was to him part and parcel of his religion, and Kohler grasped the force of this truth when, eulogizing Jewish law, he exclaims: "Das Recht des alten Israel . . . es war ein Sakralrecht im höchsten Sinne".<sup>8</sup>

#### THE BASIS AND DEVELOPMENT OF JEWISH LAW

At the outset, we must endeavor to understand the basis and the development of all Jewish law. Each and every law must be based upon, and find its source in, Holy Writ or at least in an oral tradition bearing upon an interpretation of the biblical word or phrase. In the discussion of every law, you will always find the expression: "Upon what Scriptural verse is it based?". The Talmud is not a code formulated by a legislative body, nor does it, of its own volition, decree the law. It derives its authority solely from the Scriptures, and the interpretation of the biblical words is its principal function.<sup>9</sup>

That does not mean that all Jewish laws are to be found in the Bible. Post-biblical Jewish law most certainly went beyond Scripture. New provisions had to be created to meet new conditions which could not have been foreseen. The scribes, and later, the rabbis, for political, national, and natural reasons, endeavored to create, by legal fictions, by equity and by legislation, a hedge around the Torah, a "chain of tradition". Though in theory the legal canon was closed forever, it did not in fact prevent the Jews from interpreting and developing their laws and precepts with life-giving freedom. But this interpretation and development was always centered about the Bible.<sup>10</sup>

<sup>8</sup> J. Kohler, *ibid.*, ch. on "Israelitisches Recht," p. 71.

<sup>9</sup> Cf. *Der Talmud und sein Recht*, by Dr. M. W. Rapaport, p. 4. •

<sup>10</sup> N. Isaacs, *ibid.*, p. 1; cf. Sir Henry Maine, *Ancient Law*, ch. 2, for a discussion of the agencies by which law in general is brought into harmony with the progress of society. The same instrumentalities operated in the development of Jewish law.

Especially is this true in the case of the Civil Law. The development here presents a remarkable contrast to that of the Criminal Law. While the latter retained all through the course of existence its Mosaic character, the former was practically a talmudic edifice reared on Mosaic principles. But this contrast is explained easily enough. Criminal and capital laws are closely connected with the existence of an independent state; civil laws enjoy a certain independence of political conditions; autonomy itself offers an ample field for the growth of the latter. And as the Jews continued to enjoy their autonomy for a long time in Palestine, and especially in Babylon, after their right to practise their criminal law was taken from them, their civil system continued to develop after the destruction of the state, with ever increasing vigor. In fact it reached its culmination in Babylon.<sup>11</sup>

The Bible itself contains comparatively very few civil laws, and even those mentioned are not stated explicitly but casually. Contracts and obligations are hardly touched upon. The only laws sufficiently expounded are those of damages, guardians, and inheritance. It is evident that the civil laws mentioned in the Pentateuch were adjusted to an agricultural community, living in the small circle of its family possessions, without practising much commerce or industry. As soon as the family circles were broken and intercourse and commerce spread, the few prescribed laws proved insufficient and a system of civil laws had to be constructed. It is possible that under these conditions, Jewish civil law was somewhat influenced by the system of more commercial nations, such as the Baby-

<sup>11</sup> It is for the same reason that one may note that Philo in his discussion of Jewish law is more in conformity with the rabbis in civil law than in criminal law. The latter was not permitted to be practised by the Jews in his day, and so he was dealing with theory alone, and there he was often the preacher or philosopher instead of the legalist. In his discussion of the civil law, he was in agreement with the rabbis, because that was actually practised, and he could not therefore interpret it differently.

Ionians, with whom they came in contact. During the second Temple the civil law kept on developing according to the life, conditions, usages, and rules of conduct of the age, adapting and modifying usages of other legal systems, most likely the Roman.<sup>12</sup> As already stated, the Jews practised their own civil law even after the loss of their sovereignty, and it continued its development, reaching the height of its glory in the Babylonian period.

In later years attempts were made to collect in systematic fashion the manifold legal decisions scattered throughout the pages of the Talmud. One of the first and foremost of these codes or digests of the law was the *Mishneh Torah*, or the *Yad ha-Ḥazaqah*, of Maimonides,<sup>13</sup> in which the author strives to state the law as the Talmud has it and in which he also mentions certain cases which show the later development of the law. The next great work of systematizing talmudic law is the *Ṭur*, a code of law, written about 1340 by Jacob ben Asher.<sup>14</sup> Finally must be mentioned the *Shulḥan Aruk* of Joseph Caro,<sup>15</sup> which again endeavors to give a clear and concise statement of Jewish law. The law in these codes, however, must be studied carefully in order to know which may be traced to talmudic sources, as in the interim between the Talmud and the *Shulḥan Aruk*, Jewish law continued to grow and to develop.

#### DIFFICULTY IN STUDYING TALMUDIC LAW

When we compare the Jewish law of the Talmud with the Roman law, one thing must be said to the advantage of the latter. Roman law is a model of system and arrange-

<sup>12</sup> Cf. M. Waxman, "Civil and Criminal Procedure of Jewish Courts," *Seminary Annual*, 1914, p. 263. For arguments endeavoring to prove that the rabbis did not consult, and were not influenced by, the Roman law, see Hirsch B. Fassel, *Das Mosaische Rabbinische Civilrecht*, Vol. I, p. 6 f.

<sup>13</sup> Rabbi Moses ben Maimon, Arabic name Abu Iniran Musa ben Maimun ibn Abd Allah, b. 1135 in Cordova, d. 1204 in Cairo; cf. *J. Encycl.* IX, p. 73.

<sup>14</sup> 1280-1340; cf. *J. Encycl.*, VII, 27.

<sup>15</sup> 1498-1575; cf. *J. Encycl.*, III, 585.



ment. It was a guide for the actual life of its citizens. General principles of law, only, are given, and it was the function of the judge to decide the detailed case before him upon these stated principles. In the Talmud, however, the reverse is the truth. System and arrangement are lacking. The Talmud is not a code of general legal principles, but rather a compilation of discussions of detailed and specific cases of law. Furthermore it must be remembered that the Talmud is not a legal work alone, but comprises many other subjects. The legal subjects treated therein are, therefore, not systematized and arranged in certain parts, but scattered throughout the many volumes and their pages. The same subject may often be discussed in various sections and under different headings.<sup>16</sup> It is because of this difficulty that so few attempts have been made to treat the legal topics of the Talmud, and that many of those which have been made contain conclusions and deductions that are erroneous and fallacious. It must, furthermore, be remembered that most of those who hitherto wrote on the law of the Talmud were theologians rather than jurists, and theologians not altogether free from prejudice and bias.<sup>17</sup> The day has come when this interesting branch of study should engross the attention not only of theologians but of lawyers and jurists as well, especially those students who realize the importance of the study of Comparative Jurisprudence. They will then find that what was said by Hale, the distinguished English jurist, with reference to Roman law might equally well be said of Jewish law: "He set himself much", says Bishop Burnet, his biographer, "to the study of the Roman law, and though he liked the

<sup>16</sup> For a study of the contents and system of the Talmud, cf. H. Strack *Einleitung in den Talmud*; M. Mielziner, *Introduction to the Talmud*.

<sup>17</sup> For an exhaustive analysis of works by Christian authors treating erroneously Jewish law, see *Die Rechte der Israeliten, Athener und Römer*, by Dr. Samuel Mayer (Leipzig, 1862), p. 3 ff.

way of judicature in England . . . yet he often said that the true grounds and reasons of law were so well delivered in the Digests, that a man could never understand law as a science so well as by seeking it there, and lamented much that it was so little studied in England".<sup>18</sup>

## THE LAW OF AGENCY

### MEANING AND SCOPE OF SUBJECT

Agency in its broader sense includes every relation in which one person acts for or represents another by his authority. This is not the sense in which it is endeavored in this paper to study the Jewish law of Agency. Such an inquiry would be too broad in its scope and would include studies in guardianship, bailments, letting and hiring, trust and partnership, wherever one may act in the interest of another without being technically his agent.<sup>19</sup> Here we shall limit ourselves to the more restricted sense in which the term is used in the Anglo-American law, and shall deal with the relations established when a person known as the agent is authorized to represent and act for another, known as the principal, and does so represent and act for him, thereby legally binding the principal in his connection with a third person; and also with the relations established when a representative is vested with authority to perform operative or mechanical duties for his principal, not intending to create any new legal relations between him and third persons, but simply acting for his benefit or interests alone.<sup>20</sup> In other words, we shall deal with the subject as understood in the modern law under the headings of principal and agent and master and servant.

<sup>18</sup> Quoted by James Bryce in *The Academical Study of the Civil Law*, Macmillan, 1871, p. 61.

<sup>19</sup> Though the Tur and Shulhan 'Aruk (Hoshen Mispat, 186, 1,2) include conditional sales in their chapters on Agency.

<sup>20</sup> Mechem's *Agency*, p. 5, 6.

The person who serves a principal in this relation is his agent, known in Jewish law as שליח *Shaluah* or שליח *Shaliah* "one who is sent";<sup>21</sup> the person who sends or who authorizes the *Shaliah* to represent him is usually termed משלח the *Meshalleah* or שולח *Sholeah* "one who causes to be sent or one who sends"; the relation created between the two is known as שליחות *Shelihut* or "agency".

#### DISTINCTION BETWEEN AGENCY AND OTHER LEGAL RELATIONS.

It is sometimes quite difficult to determine whether a certain contract creates the ordinary relation of principal and agent or a special relation covered by some of the other branches of the law, as, for instance, the relation of partnership. A partner is also an agent, but his agency is of a special and peculiar character. Maimonides, for instance, felt the closeness of the legal relationship to such an extent that he joins the laws of both of these subjects under one heading—Hilkot Sheluḥin we-shutafin.<sup>22</sup> As in the English law,<sup>23</sup> so also in the Jewish, it is safe to say that it becomes a question of construction upon the whole agreement, and the intention of the parties will be the controlling con-  
 sideration.

<sup>21</sup> I am indebted to Prof. Louis Ginzberg for the suggestion that these two terms are not altogether synonymous, but that originally there was a distinction between them. The term שולח (*shaluah*) is the participle of שלח and denotes "one who is sent," and would refer to anyone sent or appointed to do a certain act. The term שליח (*shaliah*), on the other hand, would be the technical designation of Agent, of one who was recognized to hold that position regularly for a principal; cf. Baba Kamma IX. 5 for an excellent example, where the Mishnah is careful in noting this distinction ולא יתן לא יתן לא יתן לא לבנו ולא לשלוחו אצל בית דין. The Mishnah here uses שולח when it refers to the man's representative, appointed by him simply to receive for him the stolen property; it uses שליח when it refers to the Court's representative, to the one holding the office of agent for the Bet Din. So, too, it is worth noting that the expression שליח בית דין referring to the technical Court agent, never occurs. Cf. also Yoma I.4 for another example showing this distinction.

<sup>22</sup> Cf. Kiddushin 41a, where the Talmud already noticed the nearness of the relationship between partnership and agency, and where it, in fact, hints that partnership is a special form of agency.

<sup>23</sup> Burdick on Partnership, p. 59, 195; E. W. Huffcutt, *The Law of Agency*, 2d ed., p. 7. Crinton v. Strong 148 Ill. 587; Wright v. Davidson 13 Minn. 449.

deration, as to whether an agency or some other special relation is created.

#### AGENCY BELONGS TO COMMERCIAL AGE.

Accepting our definition of agency, it will at once be seen that it belongs to a condition of society in which commercial transactions are highly developed. A non-commercial society, while it might have much use for servants, would have little need of agents, empowered to represent the principal in business dealings with third persons. It is for that reason that in the English Common Law, Agency, as a separate subject, is a matter of late development.<sup>24</sup> In fact the very title "Agency" is of modern origin. Blackstone scarcely refers to it. "The Law of principal and agent", says one of Blackstone's most learned editors, Prof. Hammond, "is derived from the canon law, and has only been introduced in the common law in recent times. Principal and Agent does not occur in Viner's Abridgement or those preceding it, and it is only at the end of the 18th century that we find it beginning to appear as a separate title as yet of very limited applications".<sup>25</sup> The index of Reeve's History of English Law contains no reference either to Agency or to Principal and Agent. So, too, Sir Henry Maine has no reference to this subject in his "Ancient Law". That the early Roman Law was destitute of the modern notion of Agency, is admitted by Mr. Hunter, who attempts to explain it with the statement: "It must be remembered that the absence of Agency characterizes every department of the ancient law."<sup>26</sup>

<sup>24</sup> Mechem, § 10.

<sup>25</sup> Hammond's Blackstone, Bk. I, p. 719. Cf. 1 Blackstone Comm. 427; O. W. Holmes, "History of Agency," in *Select Essays, Anglo-Amer. Legal Hist.*, Vol. III, p. 398.

<sup>26</sup> Hunter's *Roman Law*, 4th ed., p. 609. "Roman law was very slow to recognize the idea of representation, and the sphere within which it was applied remained throughout a restrictive one." Cf. *The Institutes*, by Rudolph Sohm, 1907, p. 220; also Mitteis, *Die Lehre von der Stellvertretung nach römischen Recht*, 1885, p. 9 ff.

But Mr. Hunter, in this sweeping assertion, fails to note the one important exception, the Jewish Law. Not only does Maimonides know and deal with the specific term of "Shelihut", Agency, but even the rabbis of the Talmud frequently speak of the "Shaliah", the agent, and the *Meshalleah* or *Sholeah*, the principal, and show their complete understanding of the importance of this legal relationship.

#### CLASSIFICATION OF AGENTS

Some modern jurists make a distinction between the relation of principal and agent and that of master and servant.<sup>27</sup> It is often said that the distinction lies in the fact that an agent is vested with discretion, while a servant is not.<sup>28</sup> According to Hufcutt,<sup>29</sup> the difference between the agent and the servant is not that one has discretion and the other has not, but depends upon whether his authority is to do an act which results in a contractual obligation with a third party or not. In the first instance he is an agent; in the second he is the servant.<sup>30</sup>

If we would apply Hufcutt's theory to Jewish law, a man sent by the principal to deliver to his wife a "get" (a bill of divorce), would be an agent; if, however, the man was vested with authority to drive a horse to a designated place, he would be a servant. But it must be noted that Jewish law makes no such distinction. In both of the above instances, Jewish law would designate the party

<sup>27</sup> So the Roman law speaks of procurator, representative and nuntius, messenger.

<sup>28</sup> XXVIII Am. Law Rev. 9, 22. Sohm, in his *Institutes*, puts the distinction thus: "A messenger is merely a conduit pipe for conveying my will, a representative is a person who wills instead of me."

<sup>29</sup> *Agency*, p. 18.

<sup>30</sup> He gives the following illustration as proof of his theory: A railroad conductor is not an agent merely because he is vested with a wide discretion as to the management of his train. He is a servant as long as his authority is to do an act not resulting in contractual obligation; if vested with authority to engage employees, then he is an agent. So a representative authorized to sell a horse at a specified price to a specified person for cash is not a servant merely because he has no discretion as to the terms of the sale; his act results in a contractual obligation, and he is therefore an agent.

vested with authority as the *Shaliah*, agent.<sup>31</sup> And it is interesting to note that while modern text-books do speak of agent and servant, legal writers of renown minimize the distinction, and evidently agree with the Jewish law that in legal essence there is no difference between the relation of master and servant and that of principal and agent. The terms, they say, are fundamentally interchangeable and the distinction between them evidential only.<sup>32</sup>

Modern writers, in treating the theme of Agency, also make a distinction between general agents and special agents, the first applying when the agent has authority to act for his principal in all matters, the second applying when the agent is authorized to act for his principal only in a single, specific transaction. Jewish law makes no such distinction, and again it is worth noting that the more advanced authorities are in agreement with the Jewish view.<sup>33</sup>

Jewish law makes only the following distinctions, or rather classifications, in the field of agency. It speaks of the *סָרְסוֹר* *Sarsor*, literally, a broker or middle-man, but which is defined by Maimonides and the later codes as a *Shaliah* or agent, who receives pay for his labors in the principal's behalf.<sup>34</sup> The *Bah*<sup>35</sup> makes a very striking distinction between the word *Sarsor* as used by Maimonides in connection with agency and the word *סָרְסֵר* *Sarser*, also

<sup>31</sup> Many cases discussed in the modern text-books under the heading of Master and Servant would, in Jewish law, find their place under the specified subject of "Laws of Hiring," *שְׂכִירֹת*.

<sup>32</sup> XXVIII *Am. Law Rev.* 9; IV *Harvard Law Review*, 345, and V *Harv. Law Rev.* 1, articles by Holmes. Historically, of course, the law of principal and agent is an outgrowth and expansion of the law of master and servant. Cf. *King v. Silvers* 13 Ind. App. 80; *Mechem*, § 8.

<sup>33</sup> "The distinction given by writers (referring to terms general and special in agency) is a vague one, and often leads to more confusion than it cures. Writers do not agree as to the distinction itself, much less as to its legal effects." Hufschut, *ibid.*, p. 19.

<sup>34</sup> Maimonides, *Sheluhin* 11.6; *Tur* and *Shulhan 'Aruk*, *Hoshen Mishpat*, 185, 1.

<sup>35</sup> "Bayit Hadash," commentary on the *Tur* by R. Joel Sirkes (b. at Lublin, 1561; d. Cracow, 1640; cf. *J. Enc.*, XI, 397), to *Tur* 181, 1.

used by him in his discussion of Sales.<sup>35</sup> The former, he suggests, means agent; the latter means a broker, a middleman or commissioner,<sup>37</sup> called in the Talmud ספסירא *Safsira*, broker.<sup>38</sup> The *Sarser* is subject to the same laws as an ordinary purchaser, and not as the *Sarsor*, or agent. Hence, if a principal said to his *Sarsor* or agent: "Sell for me my pin for \$100", and he sold it for \$200, the extra money received would belong to the principal;<sup>39</sup> but if a *Sarser* were told to sell for \$100, and the article brought more, the surplus would belong to the broker.<sup>40</sup>

From the definition of *Sarsor*, as given by Maimonides, that he is the paid agent, we would infer that the general term *Shaliah* agent, as used in the Jewish law, refers to a gratuitous agent alone.<sup>41</sup> While there is this distinction between the *Sarsor* and the *Shaliah*, viz. that the former is a paid agent and the latter is a gratuitous agent, the legal consequence of their relation to the principal and to the third party is the same, with the one exception, the question of the agent's liability to the principal for loss or damages suffered by him.<sup>42</sup> I believe that it would be more correct to say that the term *Shaliah* is the general or inclusive term of agency, and is used when we speak of rules applying both to the paid and to the gratuitous ones, while the term *Sarsor* is used when we speak of the rules applying to the

<sup>35</sup> Maim. Hilcot Mekirah, ch. 7.

<sup>37</sup> Jastrow's Talmudic Dictionary translates ספסיר broker, middleman, agent—thus making no distinction between them; סרסר he translates agent—the reverse of the Bah's suggestion. While the Bah's suggestion has force in connection with Maimonides' use of the terms and also in connection with the use by later rabbis, Jastrow seems to be correct in his interpretation as used in the Talmud. Cf. Jerusalem Talmud 'Aboda Zarah I, 39c; דפסרסר לארמא . . . לכסרסר קנס "he fined the broker . . . and they called him a man that serves as a Roman agent."

<sup>38</sup> Cf. B. Mesit'a 42b.

<sup>39</sup> See below, p. 135.

<sup>40</sup> Cf. Bah, Tur, 181, 1.

<sup>41</sup> According to Roman law, agency must be gratuitous, otherwise it would be Locatio et Conductio (letting to hire), Digest XVII, 1, 6; cf. S. F. Harris, *Elements of Roman Law*, 1875, P. 145.

<sup>42</sup> See below, p. 176.

paid agent alone. In their legal effect, there is absolutely no difference, with the exception just noted.<sup>43</sup>

There is a third type of agency spoken of in Jewish law: *harsha'ah*,<sup>44</sup> literally, an authorization, authority or power of attorney, and refers mostly to cases where the agent has a written power of attorney *שטר הרשאה* to represent his principal in court, bringing an action in his behalf to recover money, land or goods that belong to him.<sup>45</sup> While *harsha'ah* is used mostly in connection with court action, it does not limit itself to that, and may be used as written authority in ordinary agency to collect from the third party an article belonging to, or a debt due to the principal.<sup>46</sup> The main difference between *harsha'ah* and *shelihut*, then, is this, that the latter would refer to all contracts of agency, while the former would be used only to collect a debt or in an action to secure a certain article from a bailee or trustee, belonging to the principal. There is also a practical difference between ordinary *shelihut* and *harsha'ah*. It will be shown later that the death of the principal revokes at once all agency.<sup>47</sup> Now suppose Reuben sends Simeon to collect from Levi a debt due him or

<sup>43</sup> Rabbenu Jeroham distinctly said that the laws of Sarsor and Shaliah in business transactions are exactly the same. Quoted by Bet Yosef (commentary by Joseph Caro) to Tur, 185, 1.

<sup>44</sup> Ketub. 95a; Shebu. 31a.

<sup>45</sup> The term *harsha'ah* is derived from the Hiphil form of the verb רצה "to have power," which originally was used in connection with the power to claim a debt (cf. Targum Onkelos to Deut. 24, 10, where the words *כי חשה ברעך* are translated *ארי הירש בחכרך*. So also in Assyrian, "Eresu" means a claim). *Harsha'ah*, then, would mean the giving of authority or power to claim a debt. It refers, however, to written authority alone, though the word *שטר* "written document" is oftentimes to be understood (cf. Shebu. 31a). The principal, or the one who gives the *Harsha'ah* is termed the *קרשה* *Marsheh*; the agent, to whom it is given, is known as the *מורשה* *Mursheh*, sometimes also as the *בא בהרשאה* "he who comes with a *harsha'ah*."

<sup>46</sup> Cf. Sh. Ar. Hosh. Mish., 122, 1.3. According to the Roman civil law, the creditor in an obligation cannot transfer or assign his rights to another. But he may by a "Mandatum Actionis" constitute the other his procurator, or "processual agent," for purposes of the action, i. e., he may commission the other to sue as his agent for the amount due under the obligation, and may further agree by what is called a "Mandatum In Rem Suam" to let the agent retain the sum recovered in the action. Cf. R. Sohm, *l. c.*, p. 221. The "Mandatum Actionis" would be similar to the *harsha'ah*.

<sup>47</sup> See below, p. 170.



to take from him an article of his held by Levi; suppose, further, that before Simeon performs his mission, Reuben dies. Levi, not knowing of Reuben's death, pays the money to Simeon. If Simeon would then lose the money, Levi would be responsible to Reuben's heirs for the amount. If, however, Reuben, in the same case, gives Simeon a *harsha'ah*, Levi could pay him the money, even after Reuben's death, and Simeon would assume all responsibility. The *harsha'ah*, in legal effect, transfers or assigns the claim itself to the agent, and hence the death of the principal has no effect.<sup>48</sup> Hence, the third party, if he so desired, has a right to refuse to acknowledge an ordinary agent, sent to collect from him a debt, while he must recognize the *Mursheh*.<sup>49</sup>

It is interesting to review, briefly, the historical development of *harsha'ah*.<sup>50</sup> From the Talmud and Maimonides it can be seen that its use was greatly restricted. Originally it was not to be used in the case of a debt or in the case where an article was sought from a bailee, the possession or title of which was denied by him.<sup>51</sup> It was not given in the case of a debt, even where there was documentary evidence of the loan, on the principle that the identical money loaned could not be traced, and לעולם לא בא אדם מקנה דבר שלא בא לעולם, "a man cannot give possession (transfer) to his neighbor of that which does not exist".<sup>52</sup>

<sup>48</sup> Sh. Ar. Hosh Mish., 122, 1, cf. below, p. 171.

<sup>49</sup> *Ibid.*

<sup>50</sup> For an ingenious explanation of the origin of the institution of *harsha'ah* see *Das Jüdische Obligationes-Recht*, by Dr. Leopold Auerbach, Berlin, 1871, p. 567f.

<sup>51</sup> Baba Kamma 70a; Maim. Sheluḥin, III, 6. It must be noted that the Talmud, *ibid.*, discusses only the question of *harsha'ah* in relation to Personal Property, as in the case of Real Property there is no doubt that *harsha'ah* could be given. In the case of Real Property ownership was the all-important matter and implied the notion of possession, even though possession was temporarily denied him.

<sup>52</sup> Maim. III, 7, cf. Baba Batra 157a. The distinction must be noted between the documentary evidence of an oral debt, which was simply an I. O. U. paper, not sealed nor attested by witnesses, and a שטר חוב "writing of debt," a sealed bond, i. e., an acknowledgement of debt attested by two or more witnesses. The latter operates in Jewish

The Geonim, however, saw the hardships caused by this rule in that it discouraged loans, and ruled that in the case of loans, where there was written evidence of the debt, *harsha'ah* could be given, even where the debt was denied;<sup>53</sup> but it was still not allowed in the case of debts arising by parol. It was only later, with the development of trade and business that the rabbis allowed *harsha'ah* to be used in all cases, in debts arising from verbal as well as written contracts and in disputed cases of bailment as well as where possession was admitted.<sup>54</sup>

It is interesting to note that the rabbis limit the *Mursheh* to represent the plaintiff only.<sup>55</sup> The principal reason for compelling the defendant to appear in person seems to have been the feeling that if he were obliged to face the plaintiff in open court, there would be slighter probability of false plea or concealment of the truth on his part.<sup>56</sup> Besides, the plaintiff is supposed to have positive right to tangible things, whether property or money, and such rights can be transferred to an agent by the normal act of *kinyan*, while the defendant has only verbal answers, which cannot be transferred, so that his representative is only a lawyer, and such an office did not find favor in

legal understanding as a mortgage, from the time of its delivery, of all the debtor's land wherever situated. In the case of a *שטר חוב*, sealed bond *harsha'ah* could always be given, as may be seen already from a Tannaitic source (Kidd. 47b), for the reason that the bond itself is something tangible and concrete, and also because it carries with it "subjected property," *כפני שהוא כקנה השעביר שבו* i. e., a judgment on this bond may be levied on all real property of the debtor sold or pledged to others after the delivery of said bond. Cf. B. B. 75b, 77a, 77b; Maim. III, 7. *Harsha'ah* could not be given for the purpose of securing an oath from a third party, because it was limited to cases dealing with claims of tangible things, not where the claim was for mere words. Cf. Maim. III, 7.

<sup>53</sup> Tosafot, Bab. Kam. 70a, quoting R. Hananel and R. Tam; cf. also Maim. *ibid*; Kesef Mishneh (commentary to Maim. by Joseph Caro), *ibid*.

<sup>54</sup> Hosh. Mish. 123, 1. The earlier authorities did not favor the institution of *harsha'ah*, as may be seen from the statement of the Talmud: *וכל הבא בהרשאה הרי הוא ככלל הנאמר ברו ואשר לא טוב עשה בתוך עמו* "He who comes with a *harsha'ah* may be classed among those of whom Scripture says, 'he did that which is not good among his people.'" Ezek. 18, 18; cf. Shebu. 31a; Maim. III, 5.

<sup>55</sup> Hosh. Mish., 124, 1.

<sup>56</sup> Be'er ha-Golah (commentarial glosses to Shulhan 'Aruk by R. Moses Ribkes, d. Vilna, 1671) to Hosh. Mish., *ibid*.

Jewish law.<sup>57</sup> The only case, it appears, known to the Talmudists in which it was assumed that an attorney might be permitted to appear for the defendant, was one in which the high priest was sued. There, however, he was not called the *Murshesh*, but אנטלר *Entlar*<sup>58</sup> (ἡντολάριος).

#### PRINCIPLE UPON WHICH AGENCY IS FOUNDED

The theory of Agency is founded upon the oft-declared principle שלוחו של אדם כמותו<sup>59</sup>, a man's agent is like himself, which means that one who acts through an agent is in law regarded as if he does the act himself, and also that what a man may do in person he may also, in most instances do through a representative.

Jewish law carries this principle to its logical conclusion, and shows how far more advanced and more modern it is than the law of Rome. While the latter declares that no acquisition of property could be made by a free person for the benefit of another,<sup>60</sup> the following passages cited from

<sup>57</sup> The Rosh (R. Asher ben Jehiel, b. Germany, 1250; d. Toledo, 1328, wrote an abstract of all Talmudic laws; cf. *J. Enc.*, II, p. 183), Sheb'uot 4a.

<sup>58</sup> T. J. Sanh. II beginning 19d; cf. Be'er ha-Golah, Hosh. Mish., *ibid.*, quoting Al-Fasi and R. Sa'adya.

The reference here quoted in T. J. Sanh. ch. II, offers some difficulty. From the wording there it would seem that the reverse was the truth, and that the statement, "Let the priest be represented by an entlar," was merely an hypothetical suggestion offered, which was quickly answered by the remark that he cannot because an oath may have to be administered. On the other hand, the Rashba, quoted in the *כרמה הפנימי* *ibid.*, interprets the passage to the effect that while no express הנהגה rule can be stated that the priest must be represented by an Entlar, yet if he desires to be so represented in a matter where no oath will be administered, he may do so. The Be'er ha-Golah seems to be of the like opinion. In either case, it must be noted that the institution of entlar is of a later development, as its Greek origin signifies (cf. *Aruch Completum*). It was probably borrowed from Greek or Roman law, and never received any wide-spread sanction in Babylonia, since we have no mention of it in the Babylonian Talmud nor an equivalent Hebrew or Aramaic name. The Rosh, in Shevu. ch 4, mentions the fact that it was a disputed point among the earlier authorities whether the Entlar came under the rules of agency or under special laws applying to him alone.

<sup>59</sup> Kiddushin 41b, Nazir 12b, Nedarim 72b. That this is a very old established legal maxim can be seen from the fact that it is already used as a legal term in the Mishnah. Cf. Berakot 34b, though there used in connection with a discussion of a question of ritual. The Common Law also rests upon the like principle—*Qui facit per alium facit per se* (Coke Littleton, 1258a).

<sup>60</sup> Sheldon Amos, *The History and Principles of the Civil Law of Rome*, 1883, p. 137. To the early Roman law (as to the early German law) it seemed inconceivable that a

the Tur will show to what length the principle was followed by the former: If Reuben says to Simeon: **ובין לי מירי** "Buy something for me", and Simeon buys **מסתמא**, without stating whether he purchases it for himself or for someone else, then, in that case, Reuben acquires possession **קנייה** **ראובן** from the very moment of delivery.<sup>61</sup> And even if Simeon purchases the article with his own money, he cannot, once the article has been delivered to him, claim that he meant to purchase it for himself. It is Reuben who acquires possession and the article belongs to him; it is he who can sue and be sued on the transaction and not the agent.<sup>62</sup>

person should acquire rights or liabilities by means of a form to which he had not been a party. As regards slaves and *fili familias*, it is true that whatever they acquired they acquired by the necessary operation of law, by virtue of the potestas, for their superior. But the civil law steadily refused to admit that rights could be acquired through a free representative. "Per liberam personam nobis adquiri nihil potest." Later, during the Empire, acquisition by a procurator, i. e., a freely chosen representative, in the name of the principal, was allowed. As regards contracts, however, the rule remained unaltered; that is to say, it continued to be held that contractual rights and liabilities could only accrue to the contracting party himself, and that contracts could not be validly concluded in the name of the third party. Cf. R. Sohm, *l. c.*, p. 220f.

<sup>61</sup> From Bab. Kam. 102b bot. **וכי מי הודיעו לבעל חטין שיקנה חטין לבגד הבית** **בני כערבא** Palestinian view was that the third party must know that the agent acts in behalf of a principal, thus agreeing with the Roman view; while the Babylonian opinion holds that the agent may also act in behalf of an undisclosed principal. Upon closer examination, however, it appears that the Palestinian view also permits acts in behalf of an undisclosed principal; the only case in which their claim is that the principal must be known is where there is a **שינוי** change in the performance, where the agency is broken off by a non-compliance of principal's request. For instance, where principal asks agent to purchase wheat and instead he purchases barley, there the Palestinian view is that the principal must be disclosed to allow the latter to take advantage of the bargain. Cf. Rosh, *ibid.*

<sup>62</sup> Hosh. Mish., 183, 4. Moyle (*Institutes of Justinian*) gives this as the test of true agency: To what extent is it possible for B to make a contract with C for A, so that assuming, of course, that B discloses the fact of his agency, and his principal's name and does not exceed his instruction, A alone acquires rights against and can sue C; C acquires rights against and can sue A, and B neither acquires rights nor incurs liabilities under the contract. The above case is in conformity with this test. The Roman method of procedure in such a case is very clumsy. Moyle puts the matter thus: If A being at Rome wishes to buy a house belonging to C at Naples, he would give B at Naples a mandate to buy it for him. B does so, and then assigns his rights against C to A. C's rights against B, e. g., his claim for the purchase money, can be made available against A only by a novation (that is to say, a distinct stipulation from A that he will pay C for B); if this is not done, C, if necessary, must recover from B by *actio venditi*, and B from A by *actio mandati contraria*, an action to recover the money which B has laid out for him. Here, then, none of the conditions above specified are realized, and it should be noted that B is in fact the principal and the true vendor throughout, and the only person who is entitled and bound in that capacity. According to later Roman law it was different when *res corporeales* were actually

Another, and a still more striking case will prove how logically they clung to the legal fiction that a person's agent is, in legal effect, the person himself. If Reuben says to Simeon: Sell for me this article for \$4.00; Simeon succeeds in getting \$6.00 for the article; to whom does this extra profit belong? Unhesitatingly the rabbis decide that it belongs to Reuben, because as soon as Simeon received the money in payment it were as if Reuben himself had received it with his own hand, for **במקום בעלים הוא עומד** "the agent stands but in the place of the principal".<sup>63</sup>

### WHENCE THE DOCTRINE IS DERIVED

As was said above,<sup>64</sup> rabbinic law was based upon the Scriptures. Talmudical law hardly knew the meaning of direct legislation, but concerned itself with the development of the law of the Torah. Agency had become a necessity in the developed life of the community. It was important therefore to find the doctrine of agency in the Pentateuch. And so the rabbis seriously discussed the question: **שליחות מנלן**, whence is the doctrine of agency derived?<sup>65</sup> upon what Scriptural word or phrase is it based? And it is worth while to record here, in brief, their ingenious, but always logical, interpretation. We must derive it, says the Talmud, from the word **ושלחה**, "and he sendeth her out",<sup>66</sup> used in connection with the husband's giving his wife a bill of divorce. Scripture might have said **ורשה** "and he giveth her a divorce", but expressly used the word **ושלחה** (the same root as in the term **שליח**), to teach us that the husband can appoint an agent to deliver the bill

delivered. Then the agent could take possession for his principal. But according to the older Roman law even this was not possible, for the maxim held good "per extraneam personam acquiri non potest."

<sup>63</sup> Tur, *ibid*, 185, 1-3. This refers to the case where the article has no fixed market value. For further discussion of this case, see below, p. 181.

<sup>64</sup> Above, p. 120.

<sup>65</sup> Kidd. 41a and b.

<sup>66</sup> Deut. 24.1.

of divorce unto his wife, and hence, that a man may appoint an agent to act in his behalf. The rabbis then ask: Scripture could have said *ושלח*, why does it say *ושלחה*?—to teach us that the wife, though she is only a passive character in the matter—the husband alone being the active party in divorce proceedings—can likewise appoint an agent to receive her bill of divorce. From the fact that the Bible in the same context<sup>67</sup> repeats the word *ושלחה* we may deduce the rule that an agent may appoint a sub-agent.<sup>68</sup> The Rabbis then want to know whence agency may be derived in the case of marriage, for according to Jewish law a man may marry, i. e., become betrothed *אירוסין*, through an agent.<sup>69</sup> We cannot make an analogy from the case of divorce, because the latter suggests a distinct difference, inasmuch as it is a case of *בעל כרחה*, compulsion. The wife's consent is not necessary in the matter of divorce; we would therefore say that here agency applies, but in the case of marriage it does not. In answer to this, the rabbis refer to the two words in the same verse<sup>70</sup> *ויצאה* and *והיתה* "she departeth" and "she becometh" (another man's wife), and make a comparison between the two. Just as in the case of her "departing" (i. e. divorce) an agent may be created to represent the principal, so also in the case when "she becometh" the man's wife (i. e. marriage) an agent also may be appointed to represent him. The rabbis then ask: We learned that in the case of *תרומה*, the gift offerings that were to be set aside for the priest, an agent may set aside the gift for his principal. Whence do we

<sup>67</sup> Deut. 24.3.

<sup>68</sup> See later, p. 154.

<sup>69</sup> Below, p. 157. In rabbinic times there were two distinct stages in the marriage ceremony: (1) the Betrothal, *'erusin*, or acquisition, and (2) the marriage proper, *nissu'in*, the latter consisting in conducting the bride to the groom's permanent or improvised home. The betrothal carries with it almost all the legal consequences of marriage. It is the act of betrothal which might also be performed by proxies appointed by either the bride or by the groom, or by both.

<sup>70</sup> Deut. 24.2.

derive that agency is to be allowed here? We cannot infer this from the case of divorce, because the latter is an instance of חול a secular matter; here, we would say agency is permissible, but in the case of Terumah which is a sacred matter we would say that agency cannot apply. We derive the law, answers the Talmud, from the seemingly superfluous word גם "also" in the verse: כֵּן תְּרִימוּ גַם אֵהֶם, "Thus ye *also* shall set apart"<sup>71</sup>, and from this גם "also" we infer that agency applies here too. The rabbis then produce another instance, where agency is recognized, viz. the case of פסח קרבן פסח the offering of the Paschal lamb. Again, they note that we cannot infer it from divorce, because that is a secular matter and here is קדשים, matter belonging to the realm of sanctity. It is deduced, they tell us, from the Scriptural verse referring to the slaying of the Paschal lamb ושחטו אותו כל קהל עדת ישראל "and the whole congregation of Israel shall kill it."<sup>72</sup> This verse does not mean, says R. Joshua b. Kōrḥah, that the entire congregation had to kill it, one only did the slaying; but the Bible regards the act as done by, and in behalf of, the entire congregation, and thus we learn from Scripture that the act of the agent is the act of his principal. The Talmud proceeds in this manner, endeavoring to infer one case from the other, but comes to the conclusion that each case possesses some distinctive feature and must therefore find its own source in the Bible.<sup>73</sup>

#### FORMATION OF THE RELATION OF PRINCIPAL AND AGENT

There are various ways in which the legal relation of

<sup>71</sup> Numb. 18.28. For another inference from this word see below, note 123.

<sup>72</sup> Exodus 12.6. The three instances of divorce, marriage, and sacrifices form a combination from which all other cases of agency may in fact be derived. We have there the ordinary case of agency and the exceptional cases where no consent is necessary and where it pertains to sacred matters. The case of Terumah may be dispensed with, for while it is a sacred matter compared to divorce, it is secular in comparison to sacrifices.

<sup>73</sup> For an elaborate account of biblical proofs that שלחן של ארבע ב' ו' compare Sifre Zuḡa Ed. S. Horowitz, 1910), p. 87, 88.

principal and agent may be created: (1) by mutual agreement; (2) by estoppel, and (3) by subsequent ratification.<sup>74</sup>

### 1. BY MUTUAL AGREEMENT

The relation of agency in Jewish law, as in modern law, is created immediately upon the authorization of the agent by the principal to do for him a certain act, and the acceptance of this authorization or appointment by the agent, either by express words or by proceeding upon the performance of the act so authorized.<sup>75</sup>

### 2. BY ESTOPPEL

The modern doctrine of estoppel may also be noted in the Jewish law of agency. The principal has the power to revoke his agent's authority to act in his behalf at any time he may so deem fit.<sup>76</sup> But suppose A held out B to be his agent to collect a certain debt due him from C, and before B collected the debt, A revoked his agency; suppose, furthermore, C not knowing of the revocation, paid the debt to B, then A has no further claim upon C.<sup>77</sup> His revocation, in so far as it related to C, can have no effect, and A is estopped from proving it because C can claim that, not having knowledge to the contrary, he had the right to rely upon the presumption that the principal had not revoked his authority.<sup>78</sup> The theory of estoppel is based upon the desire to do justice, so that where one of two parties must suffer, he who at first held out the agent as his and thus led others to believe that he was acting, with full authority, in his principal's behalf should be the

<sup>74</sup> So also in the English-American law; cf. Hufcut, p. 23. Agency by necessity or by operation of law (the *gesetzlicher Vertreter* of the German Civil Code) would come under the heading of שלוח בית דין "agent appointed by court," not discussed here, as it comes under the law of אפטרופוסים guardianship.

<sup>75</sup> Maim. *ibid.* I, 1; Tur. *ibid.*, 182, 4; Sh. Ar. *ibid.*, 182, 1.

<sup>76</sup> Below, p. 168.

<sup>77</sup> Hosh. Mish., 122, 2.

<sup>78</sup> Cf. באר הגניז, Hosh. Mish., *ibid.*; cf. also below, p. 190.



one to suffer rather than the party who was absolutely innocent. It is no surprise, then, that the same theory should be applied in Jewish law. And so we note the case that where Reuben gives Simeon a power of attorney to sue Levi for a debt due him, and Levi goes to court with Simeon, but judgment is given in Levi's favor, Reuben cannot now come and claim that he had revoked Simeon's power to represent him before the suit began, and that, therefore, the judgment should be set aside.<sup>79</sup> As another example of agency by estoppel may be noted the תקנה decree of R. Gamaliel the Elder, that a husband who sends a bill of divorce by an agent should not revoke it, unless knowledge of revocation is given either to wife or to agent, the reason for such decree being מפני חיקון העולם public policy.<sup>80</sup> The clearest case of the formation of the relation by estoppel is the following: When A, in the presence of B, says to C: "I am B's agent", and B remains silent, B will afterwards be estopped from denying A's agency.<sup>81</sup>

### 3. BY RATIFICATION

The English Common Law has recognized the theory of "agency by ratification". Briefly the rule may be stated thus: Where one person, whether no agent at all or an agent exceeding his authority, does an act as agent in the name of or on behalf of another, the person in whose name or on whose behalf the act was done may ratify the act and thereby give to it the same legal effect as if the one doing it had been in fact an agent, or, being an agent for some purposes, had been in fact authorized to do the act in question.<sup>82</sup> Does the Jewish law of agency recognize

<sup>79</sup> IJosh. Mish., 122, 3.

<sup>80</sup> Gittin, 32a, 33a.

<sup>81</sup> Gloss (הגהה) to Rosh, Kidd., 45b.

<sup>82</sup> *Dempsey vs. Chambers* 154 Mass. 330. The theory is based upon the maxim: *Omnis ratihabitio retrahitur et mandato priori aequiparatur*. Every ratification relates back and is equivalent to prior authority.

this rule?<sup>83</sup> While the rabbis do not give concrete cases bearing upon this phase of the subject, it can be shown that the principle was not foreign to them. In fact there is a doctrine frequently stated in rabbinic law which recognizes the fundamental principle upon which the theory of ratification is based: *זכין לאדם שלא בפניו*, you may obtain a privilege or benefit in behalf of a person in his absence.<sup>84</sup> Accepting this principle, it would appear that where A purchased a piece of land in behalf of and in the name of B, B not having appointed A as his agent at all, yet when B learns of the purchase he may ratify the act, that this ratification will relate back and will be equivalent to a prior authority. B will be able to sue and be sued upon the transaction. The important element in the principle of ratification is that the would-be agent must do the act in the name of and in behalf of the person he desires to represent. If, however, he makes the contract or deal in his own name, not purporting to act on behalf of a principal, but having a secret intention to act, though without authority, for a principal, the contract so made cannot be ratified by the undisclosed principal.<sup>85</sup> It is this element especially that the rabbis recognize and discuss. The Ṭur<sup>86</sup> gives the following case, which may be in point: Desiring to prove that by the agent's acquisition of property in behalf of the principal (when he was told by the principal to purchase it for him), the property already belongs to the principal, and the agent cannot afterwards claim that he made a mistake and had meant to purchase it for himself,<sup>87</sup> the Ṭur makes this additional significant assertion: "If the agent purchases the article in the name of Reuben,

<sup>83</sup> C. M. Simmons, in his article on "Talmudic Law of Agency," *J. Quart. Rev.*, VIII, p. 621, merely puts the question and answers that it is not definitely decided, without giving any proof one way or the other.

<sup>84</sup> *Erubin*, 81b, a.f.r.

<sup>85</sup> *Huffcut, l. c.*, p. 43. Cf. Principal case, *Keighly v. Durant*, 1901, App. Cas. 240.

<sup>86</sup> *Ibid.*, 183, 4.

<sup>87</sup> Cf. above, p. 134.

then, even if he gives his own money for the purchase price, he cannot later claim that he purchased the article for himself, once **משיכה** the act of transference had taken place, and he accepted the article in the name of Reuben". It is true that the Ṭur, in making this statement, meant it to apply to the former case where the agent was appointed by his principal. Nevertheless, I believe, that from the wording of this statement of the law, especially the emphasis upon the condition that "even if he used his own private money as the purchase price", the rabbis would follow the theory of ratification.

A still clearer case in point is the following, which even goes beyond the modern accepted theory of ratification, where the notion is that the third party does not know that the agent has no authority to act: "If A comes to sue C for a debt the latter owes to B, without having the **הרשאה** *harsha'ah* or power of attorney, the proof of his agency, without which he cannot force C to go to court,<sup>88</sup> then *even though he is at present not B's agent at all*, nevertheless if he offers to guarantee that he will later get the *harsha'ah* or authorization from B, C must recognize him and answer him in court, for we accept the principle **זכין לאדם שלא בפניו** "we may obtain a benefit in behalf of a person in his absence".<sup>89</sup> The following case must also be mentioned, for here the principle seems to be accepted to the fullest extent: "If Reuben purchases a piece of land from Simeon in behalf of Levi, whose agent he claims to be, and the deed is written in Levi's name, Reuben cannot afterward say: I purchased it for myself and want you to write another deed in my name.<sup>90</sup> The rabbis, it is true, base their ruling upon the theory that the seller ought not to be troubled to write an extra deed, but I believe that the

<sup>88</sup> Cf. *Ibid.*

<sup>89</sup> Isserles to Hosh. Mish., 122, 1.

<sup>90</sup> Maim. l. c., 11, 5; Ṭur and Sh. 'Ar. *ibid.*, 184, 3.

underlying principle is after all the desire to benefit a person, in whose behalf another undertook to act. And Isserles, in his gloss to this passage, expressly says: "Even though Levi never authorized or appointed Reuben to purchase the land for him, if Reuben did purchase the land in Levi's name, and paid for it with money that belonged to Levi, then the sale cannot be rescinded".<sup>91</sup> Were it not for this extra stipulation which the glossator required—viz. that the money should belong to the principal in whose behalf the act was done—this statement would coincide in every particular with the modern doctrine. That the rabbis accepted the principle of Ratification can be seen also from their statement of the reason for the law that if one finds an article in the street and takes possession of it in the name of another, it immediately belongs to the one in whose name and in whose behalf possession was taken. There the rabbis give as their reason that זכיייה מטעם שליהות, when he takes possession in behalf of the other he makes himself an agent for him, and the law of possession that is applied here is the law that applies to agency.<sup>92</sup> A case where the principle of ratification is fully recognized is the following: Where B, who is not appointed agent, learns from a hint that A would like to marry C and B performs the Kידushin in behalf of A, C then becomes lawfully the wife of A.<sup>93</sup> The theory of ratification is also recognized by the Talmud in the case when one voluntarily takes possession of goods from a debtor in behalf of a creditor, though he was not requested by the creditor to do so (החופס לבעל). (חוב קנה). The rabbis allow such action where there is only one creditor, but refuse to sanction it where there are a number of creditors, not because they dispute the principle of ratification, but because of public policy, the injury

<sup>91</sup> *Ibid.*

<sup>92</sup> Cf. To-faot, B. Me-sha 10b.

<sup>93</sup> Sh. 'Arukh Eben ha-Ezer, 35, 4; cf. above, note 69.

that will thus accrue to the others.<sup>94</sup> The clearest case and the most direct reference for Ratification is the following cited in the Shulḥan 'Aruk: "Where A sells real or personal property and B purchases and takes possession of the property or the article in behalf of C—C being ignorant of the transaction—it is in C's power to ratify the sale or not. If he ratifies it, the article belongs to him, if not the sale is nullified and the article belongs once more to A."<sup>95</sup>

There is, however, one important distinction between the theory of ratification as understood by the rabbis and as understood in the law to-day. The latter applies the rule not only where it works to the benefit of the principal but also to his injury or disadvantage and thus permits him even to ratify the tort of an agent; Jewish law clearly limits the theory to cases where it works to the principal's benefit only, the principle being **זכין לאדם שלא בפניו ואין רבין לאדם שלא בפניו** "we may benefit a person in his absence, but cannot add a burden upon him".<sup>96</sup> Says the Be'er ha-Golah, in commenting upon the above rule of law enunciated by R. Isserles,<sup>97</sup> that if the court sees that the agency will not benefit the party in behalf of whom he acts, then the agent will not be permitted to act for him. Even in agency by appointment, the principal can always say to his agent: **לתיקוני שדרתיך ולא לעויתי** "I have appointed you to benefit me, not to injure me"; in this case, where he has not even appointed him, he could surely make this claim. The Nimuke Yosef<sup>98</sup> expressly states, in speaking of a woman who desires to ratify the act of a man who, without her authority, accepted in her behalf a bill of divorce

<sup>94</sup> Giṭtin 11b.

<sup>95</sup> Ḥosh. Mish., 235, 23, cf. באר הגולה *ibid.* The source of this law is in Maimonides, Mekirah, ch. 30. The reading in the text, *ibid.*, **זכין וזכה בהן הלוקח** is evidently incorrect cf. Tur, Ḥosh. Mish., 235.25: **זכין או מטלטלין וזכה בהן אחר** ללוקח. In Maim. *ibid.* 4.2, the same statement of the law is given with reference to gifts.

<sup>96</sup> 'Erubin 81b., cf. Huffercut, p. 300ff.

<sup>97</sup> To Ḥosh. Mish., 122, 1.

<sup>98</sup> To Yebamot, end ch. 15.

from her husband, that she cannot do so, even though she wishes it, because a divorce, generally speaking, does not come under the category of benefits to the principal.

#### CAN THE THIRD PERSON RECEDE BEFORE RATIFICATION?

Can the third person recede from the transaction after he finds out that the agent had no actual authority to act for his principal and the latter had not yet ratified the act? This is a disputed point in modern law.<sup>99</sup> According to Jewish law, it is clear that he could not, for applying the rule of *זכייה מטעם שליחות* acquiring possession in behalf of another, in which it was said that the finder is regarded as an agent, we know that the article belongs immediately to the party in whose behalf it was taken, and not to the agent. Hence by analogy, if the agent does an act in behalf of another, without being appointed by him, immediately upon the performance of the act, we apply the rule *זכין לאדם שלא בפניו* "we benefit a person in his absence," and it is the same as if the principal had done it himself. The above quoted case in the Talmud, where one acts in behalf of a creditor, also gives evidence of the fact that the third party deals not with the agent but with the principal—even before the ratification—and, therefore, cannot recede from the transaction. But we need not come to this conclusion by analogy alone. The above quoted reference affirming the theory of ratification expressly states that *יד הלוקח על העליונה* the man for whom the purchase was made, i. e. the principal, has the upper hand. If he wants to ratify the act, the seller cannot recede from the transaction; if he does not want to ratify the act, he cannot be forced, and the article goes back to the third party.<sup>100</sup>

<sup>99</sup> In the United States, the third person may recede before the ratification; comp. *Townsend v. Corning* 23 Wend. (N. Y.) 435. See also 9 Harv. Law Rev. 60. In England the rule is that he cannot recede. Cf. *Bolton Partners v. Lambert* L. R., 41 Ch. D. 295.

<sup>100</sup> *Hosh. Mish.*, 235, 24; cf. note 95.

## FORM OF APPOINTMENT

## (a) In Sheliḥut.

A *Shaliḥ* or *Sarsor*, a gratuitous or paid agent, may be appointed by oral communication alone. The appointment does not need קנין *Kinyan* (the special symbolical form of making an agreement binding), nor does it have to be in writing or in the presence of witnesses.<sup>101</sup> As Maimonides puts it, witnesses can serve only where there is a conflict in testimony, to enable us to know who speaks the truth; or as the Talmud says,<sup>102</sup> quoting Rab Ashi, "witnesses are created only for liars", i. e. witnesses are not necessary to legalize the appointment of the agent, but only as a guard against faithless persons who might deny the transaction.<sup>103</sup>

## (b) In Harsha'ah.

The *harsha'ah*, or power of attorney, is always in writing, and is given in a particular way. It is accompanied by קנין *Kinyan*,<sup>104</sup> the special symbolical act of seizure, by means of which the *Murshesh* becomes invested with all the power specifically defined in the instrument.<sup>105</sup> The שטר הרשאה *sheṭar harsha'ah*, or the written document, must

<sup>101</sup> Maim. I, 1; Hosh. Mish., 182, 1.

<sup>102</sup> Kidd. 65b.

<sup>103</sup> So also in Roman law, no fixed form is necessary to constitute a *mandatum* and verbal appointment is sufficient. D. XVII, I, 1, 2; cf. G. Leapingwell, *Manual of the Roman Civil Law*, 1859, p. 212. In the modern English-American law, too, oral authority is sufficient.

<sup>104</sup> Maim. III, 1; Hosh. Mish., 172, 4.

<sup>105</sup> In case the claim, for which the *harsha'ah* was given, was for money, kept by the third party, there was a peculiar form of *kinyan*, to mark the transfer of the claim. As the law does not allow money to be transferred by the symbolical act, the principal would hand over to the attorney a little earth, and upon that the transfer of the claim was made. (Cf. Maim. III, 7; B. M. 45b, 46a; B. K. 104b.) The Geonim, however, saw the hardships of this, especially in the case where the principal possessed no land of his own. They, therefore, ruled that in such a case, the principal may transfer the claim without using the earth, applying the legal fiction, that he conveys it upon four ells of the portion of earth that every Jew is supposed to possess in the Holy Land. Maimonides was of the opinion that this legal fiction was resorted to so as more emphatically to impress the defendant; but where the third party refuses to recognize the *Murshesh* even where the קרקע קנין was made, he cannot be compelled to do so, and the plaintiff must make the demand himself (Maim. III, 7). The Haggahot Maimuniyot (*ibid.*), quoting R. Tam, say that the party's mere declaration that he has קרקע is sufficient.

contain this formula: "ויל דון ווכי ואפיק לנפשיך" "proceed, litigate, acquire, and possess for thyself",<sup>106</sup> or words to that effect. If such words were not used, the defendant was not obliged to answer the attorney or to recognize him, and he could plead "לאו בעל דברים דידי את" "I have nothing to do with thee".<sup>107</sup> It must also conclude with the formula: "כל דמתעני לך מן דינא עלי הדר" "I am responsible for that which thou wilt expend for me in this suit".<sup>108</sup> This latter provision, however, is for the benefit of the principal, or *Marsheh*, as between him and the agent, to show that the latter, despite the formula (litigate and possess for thyself) cannot lay claim to what he acquires, but remains an agent and must hand over the article to the principal. If, therefore, this latter formula, with reference to the expense, is omitted from the document, it remains valid, and the third party can have no objection to it.<sup>109</sup>

We see, then, that the formula, "go to law, win and get for thyself", does not actually transfer or assign the claim to the *Mursheh*, but it is only a legal fiction, used to give him the right to sue, just as if the claim had actually been assigned. An interesting case must here be noted. A has a jewel in the possession of B and comes to B to claim it. The latter answers that C came to him with a *harsha'ah* written by A, making claim for it, and he returned it to C; but C later loaned it back to him and that therefore he is responsible to C alone, and is no longer responsible to A. The law decided that B must return the jewel to A, the rightful owner, for C, though he came with a *harsha'ah*, was no more than A's agent, and had no legal right to loan it to anyone.<sup>110</sup> The rabbis, however, cling

<sup>106</sup> B. K. 70a; Maim. Hosh. Mish., *ibid.*

<sup>107</sup> Maim. and Hosh. Mish., *ibid.* The Hosh. Mish., 122, 7, rules that even if the word "litigate" is omitted it is valid, as long as it contains the concluding phrase to be noted later.

<sup>108</sup> Hosh. Mish., 122, 6. Maim., *ibid.*, words the formula as follows: "כל שתוציא ברין זה עלי לשלש".

<sup>109</sup> Hosh. Mish., 122, 6, 7; Maim. III, 1.

<sup>110</sup> Isserles to Hosh. Mish., 122, 7, quoting Glosses of R. Mordecai.



to this legal fiction to the fullest extent. The document must show that the *Murshesh* will acquire for himself some part of the actual claim itself. And so they decree that if the *harsha'ah* states that the *Murshesh* acquires a third or a fourth part of the claim for himself (and not the entire claim), even then the third party cannot say: "I have nothing to do with thee", for a claim on a part gives you a right to make a claim on the whole.<sup>111</sup> But that is sufficient as long as the *Murshesh* has a right to acquire for himself an actual part of the claim. If, however, instead of a part in the claim, the *harsha'ah* gives to the *Murshesh* a definite sum, e. g. one hundred denars, for his services, even if this money is to be taken out of the money that is claimed, it will not be a valid *harsha'ah*. There must be an assigned legal claim to a definite part of the article claimed.<sup>112</sup>

#### PARTIES TO THE RELATION

Any person, man or woman, may be a principal or agent, and even a married woman may be an agent. The rule includes also the Canaanite bondman or bondwoman of a Jew, for they are not regarded as Gentiles, but come under the category of Bene berit.<sup>113</sup> There are, however, two important exceptions to this rule: (a) One who is

<sup>111</sup> Maim. III, 2.

<sup>112</sup> If the party himself has an actual claim in the article, he naturally does not need a *harsha'ah* in order to bring suit. So a partner, or one of the heirs of an estate of which no partition has been made, could sue without a *harsha'ah*; their interests being joined, each is authorized to act for the others. (Cf. Maim. III, 3; note the difference, however, where one of the co-heirs or co-partners was absent from the city.) So also a husband cannot sue for property belonging to his wife alone, without a *harsha'ah* from her. If the controversy concerns those portions of his wife's property in which he has usufructuary rights, he can sue without a *harsha'ah* (Maim. III, 4; cf. *Gittin* 48b).

<sup>113</sup> They are bound, like women, by all the negative commandments, and by affirmative commandments not applying to stated times only. While with reference to marriage they occupy a wholly different position from Israelites proper, yet they are regarded as a subordinate part of the Jewish community. They cannot, however, act as agents in marriage or divorce because the law of marriage and divorce does not apply to them.

deaf and dumb, insane or a minor,<sup>114</sup> cannot be either a principal or an agent.<sup>115</sup> (b) Neither can the עכו"ם, one who is an idol worshipper serve in either capacity.<sup>116</sup>

The exceptions to the rule:<sup>117</sup>

(a) A minor can under no circumstances act as a principal, nor can he appoint an agent even for those acts which he would be competent to do himself. Thus a wife who is a minor cannot depute one to receive her bill of divorce though she may receive it herself.<sup>118</sup>

On the other hand, it must be remembered that while a minor or one non compos mentis is barred from being an agent, yet for certain acts, such as those that are purely ministerial or mechanical in their nature, he may so act, if both parties have previously agreed that he should. Thus a minor may act as a messenger to carry money or goods for his principal to a third party, or vice versa, if the third party had previously given his consent.<sup>119</sup> In discussing the capacity of the minor to act as agent, the following interesting case is worth recording: A father sends his minor son with a bottle and a coin, of the value of a florin, to buy a shilling's worth of oil, and also to bring back the change. The shop-keeper gives the boy

<sup>114</sup> The minor in Jewish law refers to a boy under 13, or a girl under 12 years of age.

<sup>115</sup> Maim. II, 1; Tur and Sh. 'Ar. 188, 1.

<sup>116</sup> *Ibid.*

<sup>117</sup> In the modern law the question raised in this exception is a disputed one. Whether an infant may be a principal, earlier cases hold that action done by infant's agent are void (*Tucker v. Moreland* 1 Am. Lead Cas 247 note). Later cases deny, preferring the view of Chancellor Kent (2 Kent, comm. 235) that "the tendency of the modern decisions is in favor of the reasonableness and policy of a very liberal extension of the rule, that the acts and contracts of infants shall be deemed voidable only, and subject to their election when they become of age, either to affirm or to disavow them." As to the principal who is non compos mentis, there is also conflicting opinion. All modern cases seem to agree that any person may, as to the third person, act as an agent (*Coke on Littleton* 52a; cf. *Huffcut*, p. 34), unless, perhaps, one who is too young or too imbecile to perform at all the act in question (cf. *Lyon v. Kent* 45 Ala. 656). So infants and even lunatics and other incompetents may be the channel of communication between a principal and one with whom he deals. He himself, however, will incur none of the contractual liability attaching to an adult agent either to his principal or to the third person. Jewish law certainly appears to be more logical in dealing with these cases.

<sup>118</sup> *Gitin* VI, 3; *Eben ha-'Ezer* 141, 2, 3.

<sup>119</sup> Maim. II, 1-3; *Hosh. Mish.*, 121, 1.

the oil and also the change from the florin. On his way home the boy breaks the bottle and loses the change. The rabbis decide that the shop-keeper is responsible for the loss of the oil and also for the change lost, because he should have understood that the father sent the child only to notify the shop-keeper as to what he wants, and it was the duty of the shop-keeper to have sent the oil with a responsible person.<sup>120</sup> In other words, the rabbis would deduce from this that a minor cannot act as an agent, even for a purely ministerial act, without having the express consent of the third party. Here he did have the father's implied consent, but that was not sufficient.<sup>121</sup>

(b) As to the second exception, viz. the idol worshipper, the rule must be studied a little more closely, in order to understand what the rabbis meant to decide. First of all, the above rule applying to the minor, appointed to perform a ministerial act with the consent of the third party, applies also to the 'Akum.<sup>122</sup>

Secondly, it is significant to note that the Talmud, in laying down the qualifications for the parties to the relation of agency, uses the expression, that the party must be a Ben berit, a son of the covenant,<sup>123</sup> and not the term ישראל Israelite. In fact, an attempt was made to word the rule: "מה אתם ישראל אף שלוחכם ישראל" "just as you are Israelites so your agents must be Israelites", but it did not succeed, and the wording Bene berit remained.<sup>124</sup> We

<sup>120</sup> B. B. 87b; Maim. II, 2.

<sup>121</sup> R. Judah (*ibid.*) disagrees with this decision, and holds that the father's act in sending the boy with the bottle was a sufficient consent on his part. The dispute is as to question of fact, not of law. As to the loss of the bottle itself, both are agreed that the father is responsible, because in giving the bottle to the child he wilfully ran the risk of its breaking. In rabbinic language the bottle was אבידה מרעה—out of his mind at the very moment he gave it to the child.

<sup>122</sup> Maim. and Hosh. Mish., *ibid.*

<sup>123</sup> Kidd. 41b. R. Yannai, commenting upon the seemingly superfluous word בן "also" (in Numb. 17, 28; cf. above, p. 137), says that from this word we derive the law that just as the principal must be a Ben berit, so also must the agent be a Ben berit.

<sup>124</sup> Cf. Giṭṭin 23b.

have also noticed that the Canaanite bondman was allowed to act as an agent even though he was not an Israelite, because he came under the classification of Bene berit.<sup>125</sup> We may deduce from this, that the exclusion of the עכו"ם or heathen did not have the unanimous consent of the rabbis. In fact we have the clearest proof that there was a very strong effort made to include the 'Akum among the eligibles for the agency relation. It was reported, in behalf of Rab Ashi, that he limited the exclusion of the 'Akum from the rôle of agent only in the case of תרומה, perhaps because of its religious nature. In all other cases, the tradition has it, he allowed the use of an 'Akum as agent. Another tradition was reported to the effect that Rab Ashi prohibited them to act as agents for Israelites, but did allow Israelites to act as agents for them. The prevailing opinion, however, did not favor these traditions, and curtly declared בדותא היא "the tradition is not a truthful one".<sup>126</sup>

The rabbis, whose opinion in this matter prevailed, are not to be censured for their apparent exclusiveness. There was a valid reason—a religious reason, it is true—that prompted them to take this step. The agent, in Jewish law, frequently is compelled to take an oath.<sup>127</sup> The oath played a most sacred rôle in the life of the people, and there was no desire to force a non-Jew to comply with the strictness of that act. That this was the principal factor in swaying the rabbis in their decision barring the 'Akum from the rôle of agent, I believe, may be seen from the rabbis' wording of the law prohibiting an Israelite from entering into a partnership relation with an 'Akum, אסור לאדם שיעשה שותפות עם העובד כוכבים שמא יחייב לו שבועה ונשבע בעבורת כוכבים שלו, "It is prohibited to join in part-

<sup>125</sup> Above, p. 147.

<sup>126</sup> B. M. 71b.

<sup>127</sup> See below, p. 176.

nership with an 'Akum, for the occasion may arise when an oath will have to be administered."<sup>128</sup>

In the case of *harsha'ah*, the law in this matter was relaxed, permission being given to confer the power of attorney also upon the 'Akum.<sup>129</sup> There is, in fact, a distinct historical reference to a *harsha'ah* that was given to a non-Jew by Rabbenu Tam and which was accompanied by the symbolical act of *kinyan*.<sup>130</sup>

### AN ASSUMPTION WORTH NOTING!

A fact that well illustrates how far ethical and religious principles were interwoven with purely legal discussion, is the statement made by the Talmud that we assume that a son will not delegate his father to serve him in a ministerial or operative act, the feeling prompting this assumption being that such a request would be disrespectful to parents.<sup>131</sup> This rule, however, would not apply to his appointment as agent in business transactions.

### ELIGIBILITY OF AGENT DETERMINED AT TIME OF APPOINTMENT

A person may not be appointed as agent, if he is not eligible at the time of the appointment, even though he would become eligible at the time the act of agency was to be executed. Thus, if a man appointed a minor or one non compos mentis to deliver a bill of divorce to his wife,

<sup>128</sup> Sanhedrin 63b; cf. Tur, Hosh. Mish., 181, 1. We must also bear in mind that the status of agency undoubtedly had its origin in religious, at least in sacred relationship, as may be seen from the talmudic interpretation of the biblical authority for the agency relation (cf. above, p. 135). We can therefore understand that the non-Jew could not possibly be included. Indeed, for the same reason, the Jew could not serve as an agent for an 'Akum principal.

<sup>129</sup> Hosh. Mish., 123, 14. A slight changing in the wording of the document was, however, necessary. Instead of the phrase וקנינא כיניה only וקניה העב"ם was to be written.

<sup>130</sup> Tosafot, Kidd. 3a; Tur, *ibid.*, 123, 15.

<sup>131</sup> Cf. Kidd. 45b לא חציף אינש לשויה לאביה שלח, the aversion was more to asking the father to act than in having him act. The reference quoted shows that a son may hint to his father that he would like to have a certain act performed. Cf. also the striking citation by R. Jacob Emden of Judges 14.3 (Emden to Kidd., *ibid.*).

then, even though at the time the divorce was delivered the minor became of age or the imbecile became of sound mind, the delivery was invalid and the divorce could not take effect.<sup>132</sup> If, however, the agent was qualified at the time of appointment, but afterward became incapacitated, and at the time of the performance of the act again became qualified, the appointment was valid. Thus, if, in the above case, the bill of divorce was delivered to the agent when he was of sound mind and later he became non compos mentis, if at the time he delivered the divorce to his principal's wife, he was again sound, then the appointment and the delivery are both valid, because, as the rabbis point out, תחלתו וסופו בכשרות "the beginning (i. e. the appointment) and the conclusion (i. e. the performance) were in time of eligibility."<sup>133</sup>

### JOINT PRINCIPALS

As in the modern law,<sup>134</sup> so also in the Jewish law, two or more persons may jointly be the principals of an agent. Maimonides gives us the following illustration: Three men appointed Reuben as agent, and each gave him money, to purchase a certain article. Reuben spent only a part of the money given to him. The article will nevertheless belong jointly to the three who appointed him, even though it was Reuben's intention to purchase the article for only one of the principals.<sup>135</sup> This decision is based upon the principle that the money that was given to him was given jointly and was mixed together; it was therefore impossible

<sup>132</sup> Sh. 'Ar. Eben ha-'Ezer, 141, 32.

<sup>133</sup> *Ibid.*

<sup>134</sup> Cf. *Perminter v. Kelley* 18 Ala. 716.

<sup>135</sup> Maim. *Hilkot Mekirah* VII, 13, 14. Cf. B. *Mesi'a*, 74a. The RaMA adds that this decision will be the same even if the agent had expressly said to the seller that he was purchasing the article for only one of the principals (cf. *Tur, ibid.*, 184, 1). R. Isaiah (quoted by the *Tur, ibid.*), however, carrying the doctrine of renunciation to an extreme, says that if the agent, before the purchase, expressly says that he is going to purchase the article for one of the parties alone, the purchase will belong to him, because this statement implies that he renounces his agency for the others. R. Isaiah's view, however, is an isolated one, and is not accepted as the general law.

for the agent to take part of this mixed sum and with it to serve only one of his principals. If, however, each of the principals gave him his money separately, the money being separately wrapped or sealed and distinctly marked, in that case, if he purchased the article using only part of the money, the article will belong to the party whose money was used as the purchase price, even though he had intended that the article should belong to all.<sup>136</sup> The difference in the two cases is a difference in fact—in the first the principals were joined, and therefore he could not serve one at the expense of the others; in the second case, the appointment was joint and several, and he therefore could serve only one of the parties. The pupils of the Rashba (R. Solomon ben Abraham ibn Adret), discussing the rule as laid down by Maimonides, give us this clearer illustration of joint principalship. If the three principals gave the money in the presence of each other, then it is as if the moneys were mixed together, and the agent must serve all of them or none. They are then like partners, and the agent cannot renounce part of his agency. If, however, each of the principals gave the money separately, not in each other's presence, then it is a joint and several agency, and he is at liberty to serve one and renounce the agency of the others.<sup>137</sup>

### JOINT AGENTS

Just as there may be joint principals so, too, there may be joint agents, i. e. two or more persons may be appointed by the principal to perform the same act. When the agents are joint, the execution of the agency must be joint.<sup>138</sup> Whether in a particular case the agency is joint or several is a question of fact, and will depend upon the

<sup>136</sup> *Ibid.*

<sup>137</sup> Cf. *Bet Yosef to Tur*, 184, 1.

<sup>138</sup> Cf. *Isserles to Hosh. Mish.*, 122, 3; so also in English law; cf. *Commonwealth v. Canal Commissioners* 9. Watts (Pa.) 466.

circumstances surrounding the appointment. Thus, if a man, while in a dangerous condition, says to a group of men standing by: "Take for me a bill of divorce to my wife", then anyone of the men may act as agent for him.<sup>139</sup> If, however, he said to the group: כלכם הול'כוהו "All of you take for me the divorce to my wife", then the act must be done jointly by all the people in that group.<sup>140</sup> The former is a case where the agency is several; the latter an example of joint agency alone.

### DELEGATION OF AUTHORITY

Can the agent appoint a sub-agent to perform the act for which he was originally appointed, and thus make the principal responsible for the sub-agent's action? There is some confusion in the rabbinic decisions as to the answer, but on closer examination we shall see that they agree with the view accepted by the English Common Law.<sup>141</sup> We noted above<sup>142</sup> that from the double use of the word ושלחה,<sup>143</sup> the rabbis deduce the law that an agent may appoint a sub-agent. But this inference must not be understood to apply in all cases. What the rabbis there meant to imply was that this law may be deduced to apply in some special cases, in other words that this was to be the exception to the general rule, viz.: that, unless the principal gave his sanction, an agent may not entrust the performance of his duties to another. The very case that the rabbis were there considering was exceptional; it was the case of divorce, and there, they say, a man's agent

<sup>139</sup> Shul. 'Ar. Eben ha-'Ezer, 141, 21.

<sup>140</sup> *Ibid.*, 141, 23.

<sup>141</sup> The general rule is: *Delegatus non potest delegare*. Exceptions to this rule are to be found when the principal grants the power, or where there is an implied power to delegate the authority. Also, where the acts are merely mechanical, clerical or ministerial, involving no judgment or discretion. *Cullinan v. Bowker*, 180 N. Y. 93; 72 N. E. 911; *Lyon v. Jerome*, 26 Wend 485, 37 Am. Dec. 271.

<sup>142</sup> Above, p. 136; cf. Kidd., 4a.

<sup>143</sup> In Deut. 24, 3.



could appoint a sub-agent, because it is a case of בעל כרחיה where the wife's consent is not required. She is in fact not a third party to deal with at all, as she is not asked whether she desires to receive it or not. In other words, the act on behalf of the agent is purely ministerial, and, as in modern law, where the act to be performed is only ministerial, the authority to execute it may be delegated. Even where the act is purely ministerial, where the principal expressly states that the agent himself is to perform the action, the power cannot be delegated. Thus, where the husband says to the agent: אתה הולך "You deliver it",<sup>144</sup> he must do the act himself, unless an accident overtakes him on the way, or he becomes seriously ill, when the authority may be delegated.<sup>145</sup> If, however, he expressly commands him not to permit any one else to do the act, he cannot delegate, even in the case of accident or sickness.<sup>146</sup>

Where the agent, on the other hand, is required to exercise discretion, judgment or skill, or where it may be seen that the agent's appointment is due to the confidence that the principal reposes in him, he cannot delegate the performance of his duties, without the consent of the principal. Thus it is the prevailing opinion that an agent appointed to give *Ḳiddushin* to a certain woman, in behalf of his principal, cannot appoint a sub-agent to do it for him.<sup>147</sup> So, also, where the principal has appointed one to hold an article for him, the agent cannot appoint a sub-agent without the principal's permission,<sup>148</sup> because of the confidential character of the relation. The principal may say: אין רצוני שהיה פקדוני ביד אחר "I trusted you, but I

<sup>144</sup> According to some authorities, even if he said: הולך "Deliver," he must do it himself.

<sup>145</sup> Eben ha-'Ezer, 141, 38.

<sup>146</sup> Cf. Isserles, *ibid.*

<sup>147</sup> Isserles, quoting Glosses of R. Mordecai, Eben ha-'Ezer, 36, 5; *ibid.*, 36, 5; cf. note 69.

<sup>148</sup> Tur, Hilkot Pikkadon, 291, 24.

would not trust another". It is for the same reason that the law holds that a *Murshesh* cannot delegate his power of attorney to another.<sup>149</sup> As the *harsha'ah* is almost always given to sue for a definite article, the principal can say, also here: "It was my desire that you take it, but I did not want anyone else to lay hands upon it".

The rabbis give us the explanation of this divergence in ruling because מילי נינהו "they are words"<sup>150</sup>, and there is an express ruling in the Talmud: מילי לא מימסרן לשליח "an agent may delegate an act to a sub-agent but he may not delegate words that are to be spoken or consent that is to be given or asked"<sup>151</sup>—which is but another form of the way modern law makes the distinction. Thus B, appointed by A to give Kiddushin to C, cannot delegate his authority to D, because his act depends upon the consent of the third party. If, on the other hand, B is appointed to give a get (bill of divorce) to C in behalf of A, he may delegate this act to D, because the act which is purely ministerial, consists in transmitting through another a tangible object, and does not require any words to be spoken nor consent to be asked. So, too, the wife's agent, appointed to receive the get, cannot appoint a sub-agent, because the action depends first of all upon the consent or will of the husband,<sup>152</sup> and secondly because that which he imparted to the agent was only words.

The sub-agent, where the authority to appoint one is given, is in the same legal status as the first agent, and can, of course, not appoint a second sub-agent, without the consent of the principal.<sup>153</sup>

<sup>149</sup> Maim. *ibid.*, III, 8; Hosh. Mish., 123, 4. He can, of course, if he gets the express consent of the *Murshesh*.

<sup>150</sup> Cf. Sh. 'Ar. Eben ha-Ezer, 36, 5.

<sup>151</sup> Giṭṭin 29a.

<sup>152</sup> Cf. Bet Shemuel to Eben ha-Ezer 35, 6, for a difference in interpreting the word מילי by the מרדכי "Mordecai", and הגהות מרדכי "Glosses of Mordecai" in the name of הקדוש מרדכי, the "Saint of Dreux."

<sup>153</sup> Eben ha-Ezer, 141, 39.

## PURPOSE OF THE RELATION

The general rule deduced from the principle שלוחו של אדם כמותו "A man's agent is like unto himself", may be thus stated—that an agent may be appointed to do everything that a principal could do himself.<sup>154</sup>

This rule goes further in its application than does the modern English law. The latter does not apply the rule to certain acts, which because of their nature or because of a matter of policy, are required to be performed by the person himself. Thus, for instance, the law does not tolerate the substitution of an agent or representative to perform the rite of marriage.<sup>155</sup> In the Jewish law, agency does apply to marriage, and in fact it is safe to presume that the whole law of agency developed from the law of marriage and divorce.<sup>156</sup> Not only could the man marry by proxy, but the woman, too, could appoint an agent to represent her in the marriage ceremony.<sup>157</sup> While this practice of marrying by proxy was quite common to the whole of medieval Europe,<sup>158</sup> it is very seldom practised to-day. There is, however, an interesting American record of such a marriage, worth relating. The Rev. Joseph Jessurun Pinto, who was Minister of the Congregation Shearith Israel of New York in the Revolutionary Days, fell in love with Rebekah, the daughter of Moses de la Torre, of London. Before she came to New York he sent a commission to Dayyan de Crasto, of London, to give *Kiddushin* to Miss de la Torre for him. She was thus married to him in London, while he remained in New

<sup>154</sup> See above, p. 148, where a minor cannot appoint an agent even for that which the minor can do himself.

<sup>155</sup> Cf. Mechem's Agency, par. 126. Exception was at times made in the case of princes, *ibid.*

<sup>156</sup> *Kidd.*, 41a; cf. above, p. 135 f., and note 69.

<sup>157</sup> Eben ha-'Ezer, 35, 1; 36, 1. Every condition that the principal made in the appointment must be fulfilled to the very letter, *ibid.*, 35, 7.

<sup>158</sup> Cf. I. Abrahams, *Jewish Life in the Middle Ages*, p. 176.

York.<sup>159</sup> Whether both could marry by proxy at the same time is a disputed question. The prevailing opinion does not permit it.<sup>160</sup>

Just as in the marriage rite, so, too, does agency apply in divorce. A man may appoint an agent to deliver the get to his wife, and the wife may appoint an agent to accept the get in her behalf.<sup>161</sup> All the laws that apply to the principals in the case of divorce apply with equal force to the agents.<sup>162</sup> The prevailing opinion here, too, is that the wife cannot appoint an agent to receive the get from an agent of the husband.<sup>163</sup>

### LIMITATION TO GENERAL RULE

The general rule stated above calls for one limitation and one important exception.

The limitation to the rule is as follows: Whether a certain act can be performed by an agent will depend upon the validity of the act at the time of appointment and not at the time of performance. A man cannot appoint an agent to do that which he could not do himself at the time of the appointment of the agent, although he might have been able to do it afterwards. Thus A appoints B as agent to marry for him C, whom he believes to be divorced. C, however, is not divorced at the time of B's appointment, but is divorced at the time when B reaches her. B cannot

<sup>159</sup> Cf. "Items Relating to the History of the Jews of New York," by N. T. Phillips, in *Amer. Jewish Historical Society*, Vol. XI, p. 153. I am indebted to Dr. Cyrus Adler for calling my attention to this reference; cf. also the very interesting American case, In re: Lum Ying, U. S. Dist. Ct., 1894—59 Fed. Rep. 682, which deals with the validity of a marriage of a Chinaman, domiciled in U. S., with a Chinawoman, resident of China, through an agent. No actual decision is made in this point, but the question is discussed.

<sup>160</sup> Eben ha-'Ezer, 36, 12.

<sup>161</sup> *Ibid.*, 140, 1; 140, 3.

<sup>162</sup> *Ibid.*, 140, 2 and 3.

<sup>163</sup> *Ibid.*, 141, 1, end, and באר הטלה *ibid.*, but cf. Giṭṭin 63b and the Rosh, *ibid.*, who, in name of Hai Gaon, gives contrary opinion. It was not the intention of the writer to elaborate on these laws, as they are already discussed by those who wrote on the Jewish law of marriage and divorce. Cf. D. W. Amram, *Jewish Law of Divorce* M. Mielziner, *Jewish Law of Marriage and Divorce*.

marry C for A. The fact that C was a married woman at the time of B's appointment invalidates his agency. The general maxim on this point is thus expressed in the Talmud: לא משוי אינש שליח אלא במלתא דעביר השתא, במלתא דלא מצי "A man can only be appointed to do an act, which may be performed at the time of appointment."<sup>164</sup>

### EXCEPTION TO GENERAL RULE— ILLEGALITY OF ACT

The one important exception to the above rule is that the appointment of agency must not contemplate an illegal object. Accordingly, an act, which, if done by the principal, would be illegal, cannot be done through the agency of another, and such appointment is consequently void. Modern law, too, recognizes this principle. "There can be no such thing as agency in the perpetration of a crime, but all persons actively participating are principals".<sup>165</sup> The Talmud expresses it: אין שליח לדבר עבירה "There can be no agency for wrongful acts," i. e. he who commits a wrongful act, under the direction of his principal, is himself responsible for it. The reason for this rule is that the authority of the principal cannot justify an act prohibited by the divine authority of the law, or, as the rabbis expressed it: דברי הרב ודברי התלמיד דברי מי שומעין "If the Master's (God's) words conflict with the pupil's (the principal's) words, to whom should you give heed?"<sup>166</sup>

Thus, in all cases where the act done is illegal, the doer of the act is alone responsible, and the man who ap-

<sup>164</sup> Nazir 12b. דרכי משה Tur, *ibid.*, 182, 1.

<sup>165</sup> Pierce v. Toote, 113 Ill. 228; Leonard v. Poole, 114 N. Y. 371. He who executes the criminal act is particeps criminis with the principal who directs it; cf. Mechem's Agency, § 121. So also in Roman law, Rei turpis nullum est mandatum, D XVII. 1, 6, 3; Inst. III, 26, par. 7, 13.

<sup>166</sup> Kidd. 42b. The Talmud also builds up this rule by emphasizing the demonstrative pronoun הווא "that," in Leviticus 17.4. דב יחשב לאיש הווא "it shall be reckoned sin to that man only."

pointed him or authorized him to do it bears no responsibility. While this is the accepted law, the Talmud shows that there was a strong opposing view held by Shammai the Elder, who did not admit this exception to the general rule, but held that when a man directed a crime, the principal should bear the responsibility for his agent's act, quoting as support for his contention the words spoken by the Prophet Nathan to King David *ואתו הרגת בחרב בני עמון* "Him hast thou slain with the sword of the children of Ammon",<sup>167</sup> although it was not David himself who killed Uriah, but his representative Joab, who carried out David's instruction. But even Shammai adds a limitation to his view, viz. he would hold the principal liable only in the case where the agent derives no personal enjoyment from the act. Shammai, too, holds that a sinful act, the nature of which consists in the enjoyment derived therefrom, cannot be imputed to the principal and the doer of the act<sup>8</sup> himself must bear the responsibility. Thus, an example of a purely religious act is given: If A said to B: Go and eat forbidden food, A is not held responsible—the principle being *לא מצינו בכל התורה כולה זה נהנה זה מתחייב* "we do not find in the Torah any case where one can enjoy the fruits of the act and the other is to bear the responsibility".<sup>16</sup>

We must note here the very inclusive nature of the word *עבירה* "transgression" or wrongful act. It includes all acts that are sinful, i. e. opposed to the laws of the Jewish religion, and also all acts that are criminal in their nature. Whether the act done by the agent was to marry a divorced woman for the principal who happened to be a priest,<sup>169</sup> or whether the act done was to kill a human being at the

<sup>167</sup> II Sam. 12, 9, cf. Kidd. 43a. See S. Zeitlin, "The Semicha Controversy Between the Zugoth," *Jew. Quart. Rev.*, New Series, VII, p. 510, for an ingenious suggestion that this statement must be attributed to *שמעיה* Shemaiah instead of to Shammai. Cf. also I. H. Weiss, *Dor Dor ve 'Dorshan*, I, 142, for an interesting historical interpretation of Shammai's view.

<sup>168</sup> Kidd., *ibid.*

request of another<sup>170</sup>, makes no difference in the application of the law. Both come under the category of עבירה wrongful or illegal acts, and there is no responsibility on the part of the principal.<sup>171</sup>

The rule אין שליח לדבר עבירה goes even further than that. It applies also to torts or civil wrongs, which arise from negligence or carelessness of an agent or servant in the performance of his duty.<sup>172</sup> While this is contrary to our modern English practice, and may seem somewhat harsh in its rulings, it must be said, in its favor, that it is logical and carries out the purposes for which agency has been established.<sup>173</sup> It must here be noted that many modern jurists of note admit that the English rule "respondeat superior" is illogical and contrary to reason. Thus Sir William Anson, in his work on Contracts, says: "It would be interesting to inquire how far the doctrine of representation in such cases is of modern origin. It may be that the extreme form which Employer's Liability has assumed in English law is an application to modern society of rules which are properly applicable when the master is served by slaves and is liable for injuries done by them, as being part of his property".<sup>174</sup> So also do others, while attempting to find out the basis of the principal's liability in all such actions, admit that the ruling is altogether opposed to reason, and as one writer says,

<sup>169</sup> Cf. *ibid.*, 42b.

<sup>170</sup> Cf. *ibid.*, 43a.

<sup>171</sup> So when one injures or kills another in compliance with the latter's own request or command, the criminal will be found guilty even without malicious premeditation. Cf. B. K. 92a.

<sup>172</sup> Cf. Tur, Hosh. Mish., 396, 7. This is contrary to the later Roman and to the modern English law. The Roman law in later stages holds the principal responsible with respect to carelessness or negligence of agent or servant in the course of his duty, applying the maxim: "Respondeat superior," let the principal be held responsible (4 Inst. 114), cf. Pollock on Torts, 5th ed., p. 72ff.; Bigelow on Torts, 7th ed., p. 79, 82.

<sup>173</sup> The Sadducees held to the Roman view of Respondeat superior, cf. Mishnah Yadayim IV, 7. Cf. also I. H. Weiss, Dor Dor we'Dorshan I, 141.

<sup>174</sup> Anson's "Contracts," p. 20.

shows "a conflict between law and common sense".<sup>175</sup> "The doctrine of to day", he continues, "took shape under Lord Holt in a conscious effort to adjust the rule of law to the expediency of mercantile affairs. . . . His reasons are in substance covered by his brief sentence in Wayland's Case, 'It is more reasonable that he should suffer for the cheats of his servants than strangers and tradesmen'".<sup>176</sup> The Jewish law clings tenaciously to the logical outcome of its rulings and refuses to yield to expediency. For that reason even in the extreme case where A appoints B to dig a pit in a public path, and C is thereby injured, the principle אין שלח לדבר עבירה is applied, and B primarily is held responsible.<sup>177</sup>

In discussing the legality of the act in agency, it is also interesting to note, in passing, a difference of opinion between the Jewish and the modern law with reference to the Shadkan or marriage broker. The English law regards such marriage brokerage as opposed to public policy and therefore the appointment of one is held to be void, even though in the given case no fraud was practised on either party.<sup>178</sup> The Jewish law included the Shadkan in the class of lawful agents,<sup>179</sup> and, indeed, he played a most important rôle in the life of the people, especially in the middle ages, down to almost recent times.<sup>180</sup>

#### EXCEPTIONS TO THE EXCEPTION

There are, however, certain cases where the rule אין שלח לדבר עבירה does not apply. Thus Rabina limits

<sup>175</sup> Cf. J. H. Wigmore, "History of Tortious Responsibility," in *Select Essays in Anglo-Amer. Legal Hist.*, Vol. III, p. 529f.

<sup>176</sup> Wayland's case, 3 Salk. 234, quoted by Wigmore, *ibid.* The Jewish law was evidently also swayed by public policy, as can be seen from the law that where, in such cases, the agent cannot pay, the principal is then made to pay; Cf. R. Falk Cohen ב"מ"ק Hosh. Mish., 292, 9, quoted by ר"י חנני 192, כ"ל"א, evidently agreeing with Lord Holt's contention, that in such case, where the agent could not make good, it is more reasonable that the principal should suffer than the innocent stranger.

<sup>177</sup> Cf. B. K. 51a; Hosh. Mish., 410, 8. See also *ibid.*, 348, 8, note of Isserles.

<sup>178</sup> Crawford v. Russel, 62 Barb (N. Y.) 92.

<sup>179</sup> Cf. Isserles, to Hosh. Mish., 385, 10; also ב"מ"ק *ad loc.*

<sup>180</sup> Cf. Abrahams, *Jewish Life in Middle Ages*, p. 173.



the application of this rule only where the representative is a **בר חיובא** a responsible party.<sup>181</sup> Rab Sama, on the other hand, limits the rule to cases **אי בעי עביר ואי בעי לא עביר**, where the agent can use his free will either to do or not to do the act. Where the agent is compelled to do the act, even against his will, the rule will not apply and the principal instead of the agent will be held liable.<sup>182</sup> Examining both of these theories we must come to the conclusion that Rab Sama's is far more logical and is by far the better statement of the law. Indeed, the Rosh, quoting R. Meir ha-Levi, says that the statement of the law which we accept is the one given by R. Sama, and gives as proof a corrected reading of the text, to wit: that Rab Sama presented his view in the presence of Rabina, in the name of R. Iwya, and we have no record of a denial of this statement by Rabina. The silence on the part of Rabina is regarded by the commentator as an admission that Rab Sama's is a true statement of the law.<sup>183</sup> Rabina's view could apply only in the performance of religious acts;<sup>184</sup> Sama's

<sup>181</sup> B. M. 10b. It is quite difficult to give a proper English equivalent to this Hebrew expression as used in this connection. In applying it to religious acts, it would mean one who is obligated either to perform, or to abstain from these acts. Applying it to civil or criminal acts, the meaning is not clear at all. It cannot refer to one who is not responsible legally, e. g., a minor or non compos mentis, as the rules of agency do not apply there. The only example—other than those of a purely religious significance—given by Rabina is the case where the stolen article is found in the court-yard belonging to the thief, and it is regarded as if found in the hands of the thief because the court is viewed as the thief's agent. The court is, of course, not responsible for acts done therein.

<sup>182</sup> *Ibid.* In both these views, the underlying thought is that it cannot here be said **דברי הרב ודברי התלמיד דברי מי שומעין** that he was to obey the Master's words and not the words of his principal—in the former, the master's words did not apply to him; in the latter, he was not at liberty to make his choice.

<sup>183</sup> Cf. Rosh, *ibid.* See also **נלוין הש"ס** B. M. 10b.

<sup>184</sup> The Talmud indeed attempts to offer cases of civil and criminal nature to illustrate instances of **לא בר חיובא** non-responsibility, but without success. Cf. B. Mes'a 10b; **האומר לאשה ועבד צאו ננו לי** in which a married woman and a slave are offered as examples of **בני חיובא**, **לאו בני חיובא**, but where the answer is given that legally speaking the **אשה** and **עבד** though in their present status unable to pay damages, are nevertheless regarded as **בני חיובא** responsible with payment deferred until slave is emancipated or woman freed of marital tie. R. Akiba Eger, commenting upon this suggested case of the Talmud, offers a better and more striking answer, viz.: that the reason we say one is not a **בר חיובא** is because the principle **דברי הרב ודברי התלמיד** does not apply to him. But here, the **עבד** and **אשה** must also pay heed to "the words of the Master," for they, too, are prohibited to steal; hence they are **בני חיובא** responsible. But this

interpretation applies to all cases of the law.<sup>185</sup>

A logical corollary to be deduced from the above statement of the law is the further exception to the general rule that where the Shaliaḥ did not know the act was an עבירה or wrongful—where, for example, the undertaking was lawful on its face, and the agent was ignorant of the facts or the purpose which alone rendered it unlawful—the act does not become affected by its illegality and the status of agency remains established.<sup>186</sup> Thus, suppose a thief came to an innocent party and asked him as a favor to remove an ox from a certain barn, which he claimed belonged to him, and to watch it for him. The ox was, in fact, not his but belonged to another. The man complied with the thief's request, and after he removed the ox, it died. The Talmud rules that from the moment the agent removed the ox, it was the act of the principal and the thief alone was therefore responsible.<sup>187</sup> The agent, believing that the ox belonged to his principal, and therefore that he had a legal right to remove him, is not affected by the actual illegality of the act, because the principle of the master's command conflicting with his principal's does not apply.

comment, while striking, is unnecessary, as the Talmud itself (*ibid.*) shows that they are responsible, else why should they pay afterwards?

<sup>185</sup> The Talmud's effort to prove that there is a practical difference in the application of these two rules (B. Meṣi'a 10b) seems to me to be far-fetched. As to the question of the חצר both rules would equally apply—the חצר is not a בר חיובא, but it is also not able to express its own will, hence it is not in the category of אי בעי עביר ואי בעי לא עביר. Even in the cases given—of a religious nature, where the Talmud does make out a case of difference in application—it can be seen that the Talmud stretches the terms used to an unwarranted degree. Thus, where the Kohen asks an Israelite to marry for him a divorced woman, the Talmud says that the agent here is לאו בר חיובא, but does possess freedom to choose whether to do the act or not. Hence says the Talmud, according to Rabina, the Kohen or principal would be responsible. According to Rab Sama the agent alone would be responsible. But to say that the agent is not a בר חיובא simply because the particular law of marriage does not apply to him personally but only to the priest, is begging the question. It would be far more logical to say that he, being the Kohen's representative, acting for the priest, is legally a בר חיובא, and hence he should be responsible. Perhaps this is what the Rosh (*ibid.*) meant when he said, in conclusion: הלכך לא משנחת שלח לדבר עבירה אלא בחצר. Cf. also Tosafot B. Kam. 79a bot., for a similar forced interpretation.

<sup>186</sup> Hosh. Mish., 182, 1; באר הגולה *ad loc.* So also in modern law; Cf. Roys v. Johnson 7 Gray (Mass.) 162.

<sup>187</sup> Cf. Tosafot to B. Meṣi'a. 10b; cf. also באר הגולה to Hosh. Mish., 348, 10.

## FURTHER EXCEPTIONS—PARTICULAR CASES

In addition to the general rules enunciated by Rabina and Rab Sama, limiting the application of the law with reference to the illegality of the action, the Talmud also enumerates a few special cases, not at all in the class of Rabina's and Rab Sama's exceptions, which are, nevertheless, not affected by the rule *אין שלח לדבר עבירה*. There is first the case of *מעילה* or the inadvertent conversion of Temple property to profane use. There, if an agent committed the act in behalf of his principal, the latter is held responsible, despite the fact that the act was illegal. The Talmud there points out that this exception is based upon the use of *נזרה שוה* a similarity of phrase in two verses of the Bible.<sup>188</sup> The fact of the matter is that the case of *Me'ilah* presents no further exception, but is another example of the case just discussed where the agent does not know that the act is prohibited. The very act of *Me'ilah* implies not knowing that it is sacred.<sup>189</sup>

Another exception to the rule<sup>190</sup> is the case, where an animal that was stolen was sold or slaughtered by the thief's representative. There the rabbis decide that the thief must pay the penalty of *ארבעה וחמשה* four or five times its value, and not the agent, despite the fact that the act of the agent was illegal.<sup>191</sup> But here again the rabbis do not rest their case upon legal principle, but upon an analogy between the two cases, embodied in the words *וטבחו או מכרו* "and he kills it or sells it".<sup>192</sup> Just as in selling, two parties are necessarily implied, the seller and the purchaser, so, too, say the rabbis, in the case of slaughtering, two

<sup>188</sup> Kidd., 42b. The reference is to the similar use of *חטא* in Lev. 5, 15, and Num. 17, 32.

<sup>189</sup> Cf. Tosafot Kidd. 42b, bot.

<sup>190</sup> Simmons (cf. note 83) mentions only the *מעילה* case, and says that is the one exception. He evidently overlooked this and the following case.

<sup>191</sup> B. Kam. 79a; cf. *ibid.*, 71a. Tur, Hosh. Mish., 350, 4.

<sup>192</sup> Exod. 21, 37.

parties (the principal and his representative) may be implied.

Mention must also be made of the case taught by the school of Hillel, that where a man was entrusted with the keeping of an article and he authorized another to convert it or to misappropriate it, the principal would be held liable,<sup>193</sup> though the illegal act was actually committed by the agent. But here again they make use of a special verse in the Scriptures<sup>194</sup> to permit this exception.

Lastly must be mentioned the very interesting case cited by Isserles in his glossatory comments to the Shulhan 'Aruk that where a man delegates another to act as informer against a certain person, if the man thus delegated had the reputation of being an informer, then the principal in this case, i. e. the man who thus instigated the informer to do his work, will be held guilty. But here again, the exception is not really an exception to the general rule. For as one of the rabbis well notes, as soon as the principal gave the information to the professional informer, he already was guilty of a crime, because, having told it to a reputed informer, he should have foreseen the consequence of his act.<sup>195</sup>

## TERMINATION OF THE RELATION

### WHEN PURPOSE OF AGENCY IS ACCOMPLISHED

The relation of agency is terminated as soon as the act, for which the agent has been appointed, has been performed. As to what constitutes performance will, of course, be a question of fact, and will depend upon the nature of the transaction, usage and custom. Thus, the

<sup>193</sup> B. Meša 44a; Kidd. 42b; Tur, Hosh. Mish., 292, 7.

<sup>194</sup> Exod. 22, 8, the words **עַל כֹּל דָּבָר פֶּסַע**. It is interesting to note that the **פְּרִישָׁה** commentary to the Tur by R. Joshua Falk Cohen, *ibid.*, 297, 7) does not accept this ruling, and says that Beth Hillel must have meant it to apply only in a case where the agent did not know that the article did not belong to the principal.

<sup>195</sup> Isserles to Hosh. Mish., 388, 15. Cf. **פְּרִישָׁה הַשֵּׁבִיעִי** *ibid.*, quoting the Hatam Sopher.

case of the Shadkan presents an interesting illustration. Whether he will be entitled to his fee or brokerage as soon as the parties agreed to marry or only when the marriage actually takes place, will depend upon the custom in vogue in the particular locality.<sup>196</sup> Where there is no particular custom, the time when the marriage takes place is when the relationship is terminated. Where the custom is to wait until the wedding day, or where no custom at all prevails, the Shadkan has no claim where the parties afterward receded from their compact.<sup>197</sup>

The case of divorce gives us another good illustration. If the principal appoints an agent to deliver a bill of divorce to his wife, she is not divorced, until the agent actually delivered it to her. Until then, the principal may revoke and the agent may renounce his power.<sup>198</sup> In the case where the wife appoints the agent to receive the get, just as soon as the agent receives it in his hands, the divorce takes effect, and the relationship terminates then.<sup>199</sup> She can no longer revoke and he can no longer renounce his authority. Where, however, she appoints the agent to accept the get and to deliver it to her, the divorce becomes effective, only when it is delivered to her, and the relationship is not terminated before.<sup>200</sup> Until she receives it herself, she may revoke the power of the agent.

#### REVOCATION BY PRINCIPAL

The principal has the power to revoke his agent's authority at any time, with or without a good excuse, and

<sup>196</sup> Isserles to Hosh. Mish., 185, 10.

<sup>197</sup> Idem.—unless previously agreed otherwise. As was stated above, custom differed in this matter, thus, Isserlein (פסקים וכתבים 85) says: "When the match is made the Shadkan's work is done and his wages earned. But in our place, we are not wont to pay the Shadkan's fee till the marriage is celebrated. Elsewhere they pay immediately the contract is drawn up הושב הקנס."

<sup>198</sup> Eben ha-'Ezer, 140, 1. Cf. Giṭṭin IV, 1.

<sup>199</sup> *Ibid.*, 140, 3.

<sup>200</sup> *Ibid.*, 140, 5.

whatever the agent does after revocation is not binding upon the principal. This applies to the case where a power of attorney has been conferred as well as in ordinary agency.<sup>201</sup> While he has the power to revoke, he must see to it that the revocation is brought home either to the agent,<sup>202</sup> or to the person with whom he deals, otherwise he will be responsible for his representative's dealings.<sup>203</sup> It follows, then, that where the principal appoints a second agent to do the act for which the first agent was appointed, he thereby revokes the authority of the first. Thus, where A gave to B a power of attorney and later gave another *harsha'ah* to C; both B and C appear before D with the claim. The law says that D must recognize C, the second appointee, because the latter appointment implies the revocation of the first.<sup>204</sup>

This power of revocation is given to the principal on the theory that inasmuch as the relationship is of a confidential nature, he has the power to select whomsoever he pleases and to terminate his authority whenever he so pleases. Where the agent is a gratuitous one, and therefore suffers no loss because of the revocation, the principle holds good. But what of the *Sarsor*? Suppose he has already undertaken the performance of the transaction, can his authority to continue in that case also be revoked? The law does not give us an answer to this question. It seems to me, however, that we may infer what the rulings of the rabbis would be from the very similar case of פועלים day laborers. Either party there has a right to withdraw from the transaction. But it is clear from the statement of the law, that they have this right only before the laborer com-

<sup>201</sup> Maim. III, 8; Hosh. Mish., 122, 3. So also in Roman law; cf. G. Leapingwell, *idem*, p. 248; and in modern English law; cf. *Hartley's Appeal*, 53 Pa. St. 212; *Burke v. Priest* 50 Mo. App. 310; *Conley v. Dazian* 111 N. Y. 161.

<sup>202</sup> Isserles to Hosh. Mish., 122, 3, end.

<sup>203</sup> See above, p. 138; cf. Maim. III, 10; Hosh. Mish., 122, 2.

<sup>204</sup> Hosh. Mish., 123, 3; cf. for a similar ruling *Copeland v. Mercantile Ins. Co.*, 6 Pick (Mass.) 198.

menced his work, because neither would then suffer any loss. If he already commenced his labors, then the master cannot discharge him unless he pays him as in the case of an idle laborer *פועל בטל*.<sup>205</sup> Applying the same rule we would say that the principal can revoke at all times, even in the case of the *Sarsor*. But where the *Sarsor* would, by the revocation, suffer a loss, the principal would be made to pay him the amount of his loss.<sup>206</sup>

#### EXCEPTIONS TO THE RULE OF REVOCATION

An important exception to the general rule, permitting the principal to revoke the authority of his agent, must here be noted. When the principal hands to his agent a deed of gift, as, for instance, a deed of manumission for delivery to his bondman, the principal cannot revoke his representative's authority and the deed cannot be recalled.<sup>207</sup> The exception here is based solely upon the passion for justice which is noticeable in all the rabbinical decisions. The sages base their ruling upon the principles previously discussed, *וכן לאדם שלא בפניו* that we benefit a person also in his absence. Once the master delivered the deed, granting liberty to his bondman, the latter is entitled to the benefit he had intended to confer upon him.

There is a further exception to the general rule, based upon the principle above quoted, that we benefit a person in his absence. If Reuben owed Simeon money, or held in his possession a treasure belonging to Simeon, and, delivering this money or article to Levi, his representative

<sup>205</sup> Tur, Hosh. Mish., 333, 1. 2. Cf. B. Mes'a 31b, for explanation of term *פועל בטל*: the pay which a laborer would ask for stopping work for which he was engaged (which would be less than he would earn by working). Another opinion explains it: as much as a laborer out of work would take rather than be idle.

<sup>206</sup> So, too, in modern law. "While the principal has the power, he has not always the right to revoke, and agent has action against the principal for any damages caused thereby." *Brush-Swan Electric Light Co. v. Brush Electric Co.*, 41 Fed., 163. While he can sue for damages, the courts will not specifically enforce the contract against the principal. *Elwell v. Coon*, 46 Atl., 580.

<sup>207</sup> *Gittin* 1, 5.

said: "Take this to Simeon to whom it belongs", he can no longer revoke Levi's authority nor recall the delivered article. Once it came to Levi's hands, it was accepted in behalf of Simeon.<sup>208</sup> The peculiarity of this decision is further complicated by the ruling that despite the fact that the principal can no longer recall his agent's power, he nevertheless, remains responsible for its safe delivery into the hands of Simeon.<sup>209</sup> This ruling, presented by Rab, was accepted as law, but Samuel disputes it and holds that the principal remains responsible and may also recall the power of the agent until the article is actually delivered to the third party. Samuel's view certainly is more logical and it is evident that the later authorities, while accepting Rab's decision, did not favor it, and limited its application only to the case כשהחזק הנפקד כפרן when the principal was not an honorable person,<sup>210</sup> the suspicion being entertained that his attempt to recall the agent was prompted

#### RENUNCIATION BY AGENT

Just like the principal, the agent, too, has the power to renounce his agency at any time, and the principal can have no legal claim against him.<sup>211</sup>

#### BY CHANGE IN CONDITION OF PARTIES

Agency is likewise terminated if there is a change in the condition of the parties. Death of either party puts an end immediately to the relation.<sup>212</sup> No act of the agent, after the principal dies, can bind the heirs of the principal, nor can the heirs benefit by his acts, unless they adopt him as their agent.<sup>213</sup> Although, as we have seen before,<sup>214</sup>

<sup>208</sup> *Gitṭin* 14a; *Hosh. Mish.*, 125, 1. This applies only to cases of debt or bailment, not in the case of gifts. *Hosh. Mish.*, 125, 5.

<sup>209</sup> *Hosh. Mish.*, 125, 1.

<sup>210</sup> *Gitṭin* 14a; *Hosh. Mish.*, 125, 2.

<sup>211</sup> *Tur*, *Hosh. Mish.*, 183, 1. Cf. *Barrow v. Cushway*, 37 *Mich.*, 481, for a similar ruling, where the agency is for an indefinite period or is an agency at will.

<sup>212</sup> *Eben ha-'Ezer*, 144, 41.

<sup>213</sup> *Git.* 1, 6; *ibid.*, 13a, f.

<sup>214</sup> Above, p. 168 and p. 138.



by his desire to defraud the rightful owner of the article. notice of the revocation of an agency is generally necessary, yet when it is revoked by death, the revocation takes effect at once, even as to persons ignorant of the principal's death.<sup>215</sup> It is for that reason that the codifiers advise a third party, in dealing with an agent, not to give up an article belonging to the principal unless the agent bears a *harsah'ah*. Without this power of attorney, if, when he gave up the article to the agent, the principal was dead, and the agent lost it or met an accident on the way that prevented his returning it, the third party would be liable to the principal's heirs, for the reason that the moment the principal died, the agency terminated, and the third party gave up the article at his own risk.<sup>216</sup> Where the agent, on the other hand, bears an *harsha'ah*, his power does not lapse by the death of the principal, as he is, in legal effect at least, an assignee of the claim and acts in his own right. It is for that reason, too, that the third party must always recognize the *Murshesh*, and cannot say to him: I fear to recognize you lest your authority has been revoked.<sup>217</sup> Once he displays the *harsha'ah*, he has a legal claim, and unless the third party has absolute knowledge of his revocation, he must deal with him.<sup>218</sup>

The subsequent occurrence of imbecility or deafness and dumbness of the agent or principal will also terminate

<sup>215</sup> For a similar ruling in English Common Law cf. *Farmers' L. & T. Co. v. Wilson* 139 N. Y., 284. In the Roman law, if the mandatory while ignorant of the death of the principal does act bona fide within his authority, the heirs of the principal are to be bound by what is so done. Inst. III, 26, 9, 11; Dig. XVII. So also, while death of either party ordinarily revokes, where it appears that the transaction at the time of the death was in such a state that there could not be a revocation, the liabilities will devolve upon the heirs. D XVII, 1, 2, 6; idem XXVII, 3.

<sup>216</sup> *IJosh. Mish.*, 122, 1.

<sup>217</sup> While death does not automatically revoke in the case where one has a *harsha'ah*, it is nevertheless possible for the heirs of the dead principal to revoke the agency. Hence, where the third party is apprised of the death of the principal, he is advised not to recognize the *Murshesh*, for he can fear that the heirs have revoked the agency; cf. *באר היטב*, *ibid.*, quoting the *ש"ך* and the *תהר"ל*.

<sup>218</sup> *Maim.* III, 10; *IJosh. Mish.*, 122, 3.

the relation.<sup>219</sup> The same reason that operates to suspend an agency during ineligibility affects its revival upon the restoration to eligibility.<sup>220</sup>

#### WHERE THE PARTIES ARE JOINT

We have already seen that where the principals are joint, the agent, while he can renounce his agency with respect to all, cannot renounce with respect to part of his principals.<sup>221</sup> So, too, where the agents are joint, it is to be presumed that the principal desires their joint action and judgment. And indeed, there is a view expressed to the effect that the revocation or the renunciation of part of their number or the death of one of their number, would terminate the agency of all.<sup>222</sup> The law, however, is not so, and decides that even where part of the number renounce or have their agency revoked, the status of the remainder is unaffected.<sup>223</sup>

#### WHERE THERE ARE SUB-AGENTS

Where authority is given to the agent to appoint a sub-agent, it is presumed that the power of the latter proceeds from the principal,<sup>224</sup> and is therefore not affected by the death of the agent who appointed him.<sup>225</sup> If the principal, on the other hand, dies, the authority of the sub-agent as well as of the first agent is revoked.<sup>226</sup> The death of the

<sup>219</sup> This may be inferred from Eben ha-'Ezer, 141, 32. This would be a case of *החלתו בבשרות אבל אין כופו בבשרות*. So, too, in modern law after occurring insanity terminates agency. Story's "Agency," § 487.

<sup>220</sup> Eben ha-'Ezer, *ibid.*, see above, p. 152. Cf. also for a similar modern decision, *Harris v. Lane*, 10 N. H., 156.

<sup>221</sup> Cf. above, p. 153.

<sup>222</sup> Cf. Eben ha-'Ezer, 141, 61, *יש אומרים*. For similar modern views cf. *Hartford Fire Ins. Co. v. Wilcox* 57 Ill, 180.

<sup>223</sup> *ibid.*: *Maim.* *Hilkot Gerushin* 6, 18. Cf. *Gittin* 33a, 33b, where, however, the Talmud decides on another issue, on the question of the validity of the testimony of a part, where the testimony of a number is concerned.

<sup>224</sup> Eben ha-'Ezer, 141, 39; cf. above, p. 155.

<sup>225</sup> Eben ha-'Ezer, 141, 41.

<sup>226</sup> *ibid.* Cf. also *Lehigh Ftc. Co. v. Mohr* 83 Pa. St. 228, 24 Amer. Rep. 161.

sub-agent, unlike the death of the first agent, does not terminate the relation, and the first agent can either proceed with the work himself or appoint another sub-agent to continue the transaction.<sup>227</sup>

## LEGAL EFFECT OF THE RELATION

### OBLIGATIONS OF PRINCIPAL TO AGENT

If an agent is appointed to perform a certain act for his principal, he is entitled to be reimbursed for all sums which he has paid out in the course of his agency for his principal's benefit. The outlays, however, must be only for the ordinary, regular or customary expenses that were reasonably necessary. The principal is not responsible for expenses unreasonable in amount or unnecessary for the performance of the agency.<sup>228</sup>

Where the agent, in the pursuit of his mission, suffered a personal loss, either monetary or physical, he cannot claim indemnity therefor from the principal.<sup>229</sup> Even where, because of his undertaking the act of agency, he would become a captive or a prisoner, he cannot demand that his principal shall redeem him.<sup>230</sup>

The Anglo-American law discusses at length the question whether or not an agent may claim indemnity for the consequence of his act, if the act was illegal, but the agent was ignorant of its illegality, and comes to the conclusion that the agent has this right. Thus, an auctioneer who innocently sells for his principal goods belonging to a third person is entitled to indemnity in case he is obliged to

<sup>227</sup> Eben ha-'Ezer, 141, 42.

<sup>228</sup> Isserles, Hosh. Mish., 182, 3. Cf. for a similar ruling *Maitland v. Martin* 86 Pa. St., 120; *Goodman v. Meisel* 65 Ind., 32. Roman law also held that mandator was bound to recoup the mandatory for expenses incurred.

<sup>229</sup> Hosh. Mish., 188, 6.

<sup>230</sup> Isserles to Hosh. Mish., 176, 48. Where, however, he is a gratuitous agent, the prevailing opinion is that he can demand of his principal to liberate him (*ibid.*) In modern law the agent is entitled to indemnity against the consequences of all acts performed in the due execution of his authority, which are not illegal or due to his own default. Cf. *D'Arcy v. Lyle* 5 Binney (Pa.), 441; *Savland v. Green* 36 Wis. 612.

respond to the true owner for conversion.<sup>231</sup> In Jewish law this problem could not arise, because the agent cannot be sued, once he acted on good faith, not knowing that the act was illegal.<sup>232</sup> The principal alone, in a such a case, would be responsible, and he alone could be sued by the injured party.<sup>233</sup>

## OBLIGATIONS OF AGENT TO PRINCIPAL

### MUST OBEY PRINCIPAL'S INSTRUCTIONS

If the principal in appointing the agent specified certain conditions which he desires the agent to perform in connection with the act of agency, these conditions must be fulfilled by the agent. If he goes beyond his power he "does not effect anything", that is, his acts are void. Thus if A authorizes B to sell his house to one man and B sells it to two, the sale is invalid.<sup>234</sup> Or,<sup>235</sup> if A sends B to pay a debt which he owes to C with the instruction to take back from C the note which he holds as proof of the debt, and if B returns the money without asking for the note, B, the agent, will be responsible for any loss that A may suffer thereby.<sup>236</sup> The principle underlying these and similar rules of the law is expressed in the words that the principal may always say to his agent: לתקוני שדרתיך ולא לעוותי "You are to benefit me by your service and not to injure me".<sup>237</sup>

<sup>231</sup> *Adamson v. Jarvis*, 4 Bing 66; *Castle v. Anoyes* 14 N. Y., 329; cf. *Bibb v. Allen* 149 U. S., 481.

<sup>232</sup> See above, p. 164.

<sup>233</sup> Cf. also פתחי תשובה to *Hosh. Mish.*, 182, 3, beginning שהשלח בר חיובא where a somewhat similar case of indemnity is discussed.

<sup>234</sup> *Maim.* 1, 4.

<sup>235</sup> *ibid.*, 1, 6. Cf. *Ketub.* 85a.

<sup>236</sup> If, however, the principal, when authorizing the agent, did not mention the note, the principal cannot hold the agent, if the latter returned the money without asking for the note, *ibid.*

<sup>237</sup> *Ketub.* 99b; *B. Bat.* 169b; *Kidd.* 42b.

## GOOD FAITH

Thus anything done by the agent that tends to work harm to the principal, invalidates the act and cannot affect the principal. Thus, if the *Murshah* violates his trust by selling his power of attorney to the debtor or by cancelling the debt, the act, as affecting the principal, will be of no value, unless, of course, the authority was granted with the accompanying condition that whatever the agent will do shall bind his principal.<sup>238</sup>

## NEGLIGENCE OF AGENT

The agent, whether paid or gratuitous, is obligated to use reasonable care in whatever he undertakes to do, else the principal may hold him liable for any loss sustained.<sup>239</sup> Thus, if A gave money to B wherewith to purchase wheat, and B did so, but placed the wheat in a house where the rain was likely to injure it, the agent will be held responsible for the damage occasioned thereby.<sup>240</sup>

## AS TO HONESTY OF AGENT

If the agent pleads that he met an accident and thereby sustained a loss in the article belonging to the principal, then, if the agent can bring witnesses to prove his claim, he is relieved from all liability for his loss. If he cannot bring any witnesses, then, if the accident occurred at a time and place, at which it was not likely that others should witness it, the agent must take the oath that is usually administered in such cases to bailees, and he will not be held further responsible. But where the accident happened in a public place, where witnesses were undoubtedly present,

<sup>238</sup> Maim. III, 9: כל הנאי שבטעון קיים.

<sup>239</sup> So, too, in *Charlesworth v. Whitlaw*, 74 Ark., 277, 85 S. W. 423; *Preston v. Prather*, 137 U. S. 604. In Roman law, however, an agent, though gratuitous, must show *omnis diligentia*, failing which he must pay damages.

<sup>240</sup> *IJosh. Mish.*, 187, 4.

or where it is claimed that the accident was seen by other people, the agent, in order to be relieved from liability must produce witnesses to prove his claim, else the principal may hold him liable for his loss.<sup>241</sup>

In fact, if the principal has a suspicion as to the honesty of the agent who represented him in a transaction, if he has reason to believe that he did not turn over to him all the money that he made or all the goods that he purchased, he has a right to demand that the agent take an oath that he did not act dishonestly. This he may do even though the agent was a gratuitous one and derived absolutely no benefit from his agency.<sup>242</sup>

#### AGENT'S LIABILITY FOR LOSS

We noted above that in their legal effect there is no difference between the *Sarsor* and the gratuitous *Shaliah*.<sup>243</sup> There is, however, a difference in the cases where the agent bears a liability to his principal for money or articles belonging to the latter. The *Sarsor*, receiving pay for his services, is regarded like a שומר שכר "paid bailee" and is therefore held responsible also in the case where the article is lost or stolen.<sup>244</sup> The *Shaliah*, who serves gratuitously, is regarded as the שומר חנם "gratuitous bailee", and is held liable only in the case of gross negligence,<sup>245</sup> and is free from liability in all other cases.

#### AGENT WHO FAILS TO PERFORM

An agent, whether paid or gratuitous, cannot be held liable for a mere non-feasance, where he has never entered upon the undertaking. Thus if A says to B: Here is money, purchase therewith some fruit for me, and B fails to pur-

<sup>241</sup> Maim. II, 9; Hosh. Mish., 187, 1, 2.

<sup>242</sup> Maim. IX, 5.

<sup>243</sup> See above, p. 130.

<sup>244</sup> Hosh. Mish., 185, 7. He is held liable even if he lost it while on the way to return it; *ibid*.

<sup>245</sup> Cf. for a similar ruling in case of gross negligence in gratuitous agency, Whitehead v. Greitham, 2 Bing. 464.

chase, A has no legal redress.<sup>246</sup> While the rabbis do not allow him any legal claim, they imply that the agent, in not fulfilling this agency, did not act in a fitting manner, and the principal has cause for *הרעומות* moral grievance and complaint.

#### WHERE AGENT BUYS FOR HIMSELF INSTEAD OF FOR THE PRINCIPAL

We have just seen that an agent is not held legally liable when he fails to perform an act of agency which he has undertaken to perform. We have also learned that an agent may renounce his agency at all times.<sup>247</sup> An interesting question now arises: Suppose A appointed B to purchase for him certain goods. B does not purchase it for A, but does purchase it for himself. Has A any claim against B? Logically, following out the above rules, it would seem that he has not. He can claim that he renounced his agency in behalf of A. So, too, he can say to A: If I had not purchased it at all, you would have had no legal redress. Why should you be able to hold me liable if I bought it for myself? This argument is a logical and a valid one, on one condition however, and that is if the agent made no use of the principal's money in conducting the transaction for himself. This is, evidently, the view of the Talmud. While it does not countenance his act, though he used his own money in the transaction, and even terms him a *רמאי* "cheat" for acting in such fashion, it nevertheless rules that the principal has no legal claim against him. The Talmud derives its ruling from the following interesting case: If A commissions B to marry for him C, and B marries her himself, she remains the wife of

<sup>246</sup> Maim. I, 5, VII, 6; Hosh. Mish., 183, 1. Cf. T. J. B. M. 10b. So also in modern law in case of gratuitous agency; cf. *Thorne v. Dios*, 4 Johns (N. Y.) 84.

<sup>247</sup> Above, p. 170.





and purchase for himself.<sup>253</sup> There is, however, very little warrant for this view in the Talmud, and Maimonides and Al-Fasi expressly state that even where he can prove that he renounced his agency before witnesses, he cannot purchase for himself, but must deliver the goods to his principal.<sup>254</sup>

Where the agent can prove that the third party did not care to deal with the principal but was willing to deal with him, in that case the agent is permitted to purchase the goods for himself, but he must, of course, use his own purchase money. Even here, however, he is in duty bound to first make the fact known to his principal. Where there is a possibility that while he will take the time to notify his principal, the goods will be sold to another, he may purchase it immediately and inform his principal of the fact, after the transaction.<sup>255</sup>

### CAN AN AGENT SELL TO HIMSELF?

In the case where an agent, authorized to sell something for his principal, purchases the article for himself, we see a striking similarity in the decisions of the Jewish law and the modern cases. The general rule is that an agent cannot purchase such goods for himself, even at the stipulated price that the agent was authorized to sell, unless he has the express consent of his principal.<sup>256</sup> Where the agent paid him the money he asked as its purchase price, and the principal accepted it, agreeing to the sale, the sale is, of course, valid and the principal cannot afterwards cancel it.<sup>257</sup> Where the price was not specified by the principal,

<sup>253</sup> Maggid Mishneh. to Maim. Mekirah VII, 12.

<sup>254</sup> Cf. Isserles, Hosh. Mish., 183, 3.

<sup>255</sup> Maim. Mekirah VII, 11; Hosh. Mish., p. 183, 2. This was the case of Rab who was given money by Rabba bar Bar Hana, Kidd. 59a. Cf. also Storey v. Eaton 50 Me. 219.

<sup>256</sup> Hosh. Mish., 185, 2. Cf. Anderson v. Grand Forks 1st Nat. Bank 5 N. D. 451, 67 N. W. 821.

<sup>257</sup> Hosh. Mish., 185, 3.

there is no doubt that, under no circumstances, can the agent sell to himself. If the agent did sell to himself, and afterward resold it to another at a profit, the principal can demand the sum thus realized plus the profit.<sup>258</sup> This rule, prohibiting the agent to sell to himself, was so strictly followed, that even in the case where a principal appointed an agent to sell his field, the latter could not purchase it for himself, even though he was a *מצרן*, i. e. had the prerogative of a neighbor—the right of preemption.<sup>259</sup> Not only that, but by acting as agent the law assumes that he has given up the rights that he had before; and thus, if he sold the field to a third party, and he is himself a *מצרן*, he is afterwards denied the right to pay off the purchaser and to take the land for himself.<sup>260</sup>

The Roman and the English law base their decisions on the ground that the relationship is founded on the confidence that the principal reposes in the agent, and therefore that the agent dare not do anything that may tend to violate this faith of the principal. Jewish law bases its decisions, in these cases, also upon the element of confidence, and says that by selling to himself the agent is tempted to show lack of that good faith that he must always display.<sup>261</sup> The rabbis, however, have another reason to justify their strictness. Carrying the principle *שלוחו של אדם כמותו* "A man's agent is like himself" to a logical conclusion, they say that even where there is no doubt as to the good faith of the agent, as where he was told to sell at a specified price, he is not permitted because the principal can say to his agent: "Who sold it to you? I appointed you to sell, and selling comprises the transfer

<sup>258</sup> Responsa of *תרש"ך* quoted by *באר היטב*, *ibid.*, 185, 2. Cf. *Motley v. Motley* 42 N. C. 211 for a similar ruling.

<sup>259</sup> Cf. B. M. 108b; *Hosh. Mi-sh.*, 175, 16.

<sup>260</sup> *Ibid.*

<sup>261</sup> Cf. *באר היטב* to 175, 16.

of a thing from the ownership of one person to that of another. You are my alter ego. The article, therefore, did not leave my ownership. It is as if I sold to myself, which is, of course, impossible."<sup>262</sup>

#### CAN AN AGENT REPRESENT BOTH PARTIES?

Whether an agent may represent the third party as well as his own principal in the same transaction is not definitely decided. In the matter of divorce, the law remains undecided whether the wife can appoint as her agent to receive the get the party who is also serving as her husband's agent to deliver it to her.<sup>263</sup> An agent who is appointed to collect a debt or to pay a debt can act in behalf of the third party. But this is an exceptional case as we can see from the rulings above mentioned, because of the principle *זכין לאדם שלא בפניו* of benefiting a person in his absence. In fact, the moment the money is placed in his hands to deliver to the third party, he automatically becomes, in legal effect, the representative of the third party, though his principal remains responsible for its safe delivery.<sup>264</sup>

In the ordinary cases of selling or other business transactions, the matter remains undecided,<sup>265</sup> though it seems to me that he should not be able to represent both. All such cases require transfer of property from one possession to another. By his acting for both such a transfer would be impossible.<sup>266</sup>

#### AS TO EXTRA PROFITS

When the agent, engaged in a certain transaction in

<sup>262</sup> Cf. Tur, 185, 3, in the name of Rashba. But compare *ב"ב* to Tur, 185, 2, bot.

<sup>263</sup> *ספיקא דדינא*; cf. *Gittin* 63b; *פרקי הרא"ש*, *ibid.*; Eben ha-'Ezer, 141, 1.

<sup>264</sup> Cf. above, p. 170.

<sup>265</sup> *בבא הירצה*, *IJosh. Mish.*, 185, 1, in name of *ש"ך*.

<sup>266</sup> Cf. above, note 262. Modern law does not permit it, when the two parties have opposing interests, and each requires discretion and judgment. *McDonald v. Maltz* 94 Mich. 172. When, however, he merely serves as middleman, not in a capacity which implies trust or confidence, he may. *Montross v. Eddy* 94 Mich. 100.

behalf of his principal, succeeds in getting a bargain, i. e. he secures the article at a lower price than that specified by his principal, or sells it at a higher price than that mentioned by him, the extra profit belongs to the principal.<sup>267</sup> Thus if A commissioned B to purchase for him wheat at a certain price, and B succeeded in getting it at a lower price, the amount thus saved is for the benefit of the principal.<sup>268</sup> So, too, if the agent is given an extra measure or larger weight by the third party, the extras also belong to the principal. We noted previously the case where a principal tells his agent to sell the article for four dollars and the agent is successful in getting six. Here, too, the decision is that the surplus profit belongs to the principal.<sup>269</sup> The rabbis, however, limit the application of this general rule only to those cases where the article sold or bought has no market value. The agent is in duty bound to do his best to serve his principal. Where there is no market value, we assume that the agent did thus serve faithfully and tried to get as much as possible for him in whose behalf he served. When, however, the article had a definite market value, the rabbis decree that the surplus gain is to be divided equally between the agent and the principal.<sup>270</sup> For both have equally just claims; the agent can claim: The gain is mine, as it was meant for me, inasmuch as the price paid was more than its market value. The principal, again, can say: You made the gain in my transaction and through the use of my money or goods. The profit is therefore divided between them, giving satisfaction to both.<sup>271</sup>

<sup>267</sup> Maim. I, 5; Tur, 185, 1. 3. Cf. Ketub. 98b.

<sup>268</sup> Maim. *ibid.*

<sup>269</sup> Above, p. 135; Tur, *ibid.*

<sup>270</sup> Maim., *ibid.*; Hosh. Mish., 183, 6. When the third party states expressly that he gave the extra measure to the agent himself, the principal cannot claim it. Cf. Isserles, *ibid.*, quoting RaN and a response of RaMBaN.

<sup>271</sup> Both the Roman and the English law sternly prohibit the agent from keeping unto himself profit or gain accrued, but must in all cases turn it over to principal.

WHERE THE AGENT WENT BEYOND THE POWERS  
CONFERRED UPON HIM

We have already mentioned the principle underlying the whole relationship between the agent and his principal, namely, that the principal can always say to him לחקוני שדרתיך ולא לעוותי "you have been appointed to benefit me and not to cause me loss." This principle is scrupulously followed by the rabbis. There is only one exception to it, viz. where the principal, in appointing him, conferred upon him unlimited authority in that he expressly agreed to whatever his agent will do, whether it will be to his benefit or hurt,<sup>272</sup> otherwise the rule holds that the principal is not to suffer because of an act done for him by his representative. Thus, a transaction negotiated by an agent may be set aside if the other party to it was guilty of "over-reaching", or if it was a mistaken transaction, even though the amount concerned was less than one sixth of the value, though, if the transaction was negotiated by the principal himself, it would not be set aside, because one-sixth is the limit allowed between parties dealing with each other in person. It would be set aside, too, though the purchase or sale was of land or of a bond, to which the law of over-reaching does not apply.<sup>273</sup>

Where the agent deviates from his principal's instructions, the transaction may be set aside.<sup>274</sup> But where, because of the transaction, the principal is made to suffer loss, the agent will be held liable to him for the full amount of his loss. If, in the same transaction, there was a profit or gain, the gain, on the other hand, will belong to the principal. This applies with equal force to the gratuitous

<sup>272</sup> Maim. 1, 3; IJosh. Mish., 182, 3.

<sup>273</sup> Maim. 1, 2; IJosh. Mish., 182, 3; cf. Ketubot 100a.

<sup>274</sup> IJosh. Mish., 188, 5. So, too, in Roman law if the mandatory exceeds the powers conferred on him by the mandator, the latter was not bound by his acts, D. XVII, 1, 5.

as well as to the paid agent.<sup>275</sup> Thus if A commissioned B to purchase wheat, and B purchased barley instead, the agent will be held responsible for any loss suffered by the principal in the transaction, while if there is a profit, the profit will belong to the principal.<sup>276</sup> We must not confuse the various rulings in these cases when the agent deviates or transgresses from his principal's orders. The principal may refuse to accept the results of the transaction. In that case, the transaction is of no value, and the principal cannot be held liable either by the agent or by the third party. If he wants to avoid the transaction, he has a right to do so even if the agent offers to make good any loss sustained.<sup>277</sup> What we mean when we say that if there is loss in the transaction it must be borne by the agent, or if there is a gain it goes to the principal, refers to those cases where the principal desires to ratify the transaction in question. Here we say that he may do so, and, in addition, he may hold the agent for any loss suffered or for any extra profit made in the transaction. In other words, a transaction in which the agent did contrary to his principal's instructions, is not void but voidable only at the discretion of the principal. We shall now be able to better understand a decision as given by Maimonides, and stated by the later codes, which, upon its face, seems to be unreasonable, but as interpreted by the commentators, follows the rule I have just formulated: A authorizes B to purchase for him a plot of land from C. B buys the land but without taking

<sup>275</sup> Maim. II, 6, 1, 5; 5; Hosh. Mish., 183, 185, 1. In Roman law if agent deviates from instructions, principal also had right to all advantages, but was not responsible for disadvantage; Gaius Bk. III, 161, Inst. III, 26, 8.

<sup>276</sup> *ibid.*, 183, 6. The Talmud presents the divergent views of R. Meir and R. Judah as to this ruling: the former regards the very deviation as termination of agency and therefore the agent takes possession for himself. According to him, the profits as well as the losses will be his. R. Judah holds that the deviation does not terminate the relation. Therefore the profits belong to the principal. Where there is a loss the principal may say to him: You were to benefit me and not to injure me, you must therefore, stand the loss. Cf. B. K. 102b.

<sup>277</sup> Tur, 188, 5; cf. ר"ע comment to the words וכלל כלל, *ibid.*

a guarantee of title. B must take the land for himself, without the guarantee as purchased, and A can force B to give him his own personal guarantee.<sup>278</sup> This decision, as it stands, seems to be opposed to the general rule that when, by the agent's carelessness or deviation, the principal would suffer, the principal could not be held liable in the transaction. And so RABeD rightly asks: Why should it be so? If there was a mistake in the purchase, the principal should have the right to annul the entire transaction. And he gives us as answer the statement that this is a case where the principal wanted the land and was willing to ratify the sale, even without the third party's guarantee. The act was therefore voidable and he had the legal right either to refuse or to accept the land. The agent, however, was careless and did not serve his principal with that spirit of faithfulness and devotion that is required of him. He must therefore give to his principal his personal guarantee, if the latter desires to ratify his act.<sup>279</sup> This interpretation could also be inferred from the wording of the law as stated by Maimonides: "The agent takes the land unto himself without the guarantee and reconveys it to his principal with his own guarantee הואיל וקנה אותה במעותיו since he purchased it with his principal's money". The latter phrase has no meaning, unless we take it to mean that the principal cannot be forced to purchase the land, but if he desires the land, he may have it and force his agent to give his own guarantee, *since he purchased it with his principal's money*.

The Talmud, in discussing the legal consequences of an agent's act, if he went beyond that which he was authorized to do, makes a fine distinction between the agent who

<sup>278</sup> Maim. 1, 3; Uosh. Mish., 182, 6. In this case it is presumed that the third party expressly told the agent that he will not give a guarantee, otherwise the omission of guarantee would be regarded as a scribe's error and the guarantee would be inferred. Maim. Mekirah, XIX, 3; B. B. 169b. Cf. Kesef Mishneh, *ibid.*

<sup>279</sup> Cf. also Kesef Mishneh, *ibid.*, quoting RaN to the same effect.

totally disregards and violates his principal's commission *מעביר על דבריו*, and the one who does perform but who, of his own accord, adds to the errand of agency something that he was not authorized to do,<sup>280</sup> *מוסיף על דבריו*. The former is a case of *עיוות* injury, and the principal has a right to regard the act as invalid; in the latter instance, the act authorized is valid and binds the principal, but the additional act done unauthorized is invalid and is voidable at the will of the principal. An example of the latter case follows: If A engages B to sell one acre of his land, and B sold two acres, the sale of the one acre authorized is regarded as valid, while the sale of the additional acre is cancelled.<sup>281</sup> Where A engages B to sell two acres and B sells only one, there doubt was expressed as to whether this was a case of violation or of simple overstepping his order. The law decides that this is a case of violation and the sale of the one acre is therefore held invalid. The reason for this ruling seems to be the aversion to troubling the principal to write out several deeds of sale or to making him deal with more than one party.<sup>282</sup>

#### OBLIGATIONS BETWEEN PRINCIPAL AND AGENT AND THE THIRD PARTY

Among the later authorities the opinion gained ground that in a case where the principal desires to have the transaction regarded as invalid because his agent went beyond the powers conferred upon him, the third party may, in such a dispute with the principal, claim that the

<sup>280</sup> Ketubot 98b; Maim. I, 4; Hosh. Mish., 182, 8.

<sup>281</sup> *ibid.*

<sup>282</sup> The same ruling applies where the principal ordered him to sell to one party and he sold to two; cf. *ibid.* Nahmanides, quoted in Kesef Mishneh, even goes so far in his decision, that where the agent sold to two parties on one bill of sale, even then it is a case of *מעביר* and the principal can cancel it. He can claim that he does not want to bother with several parties. It is this reason, too, that is given for the rule that where an agent says: I am purchasing this land for my principal, and the deed is written in his principal's name, he cannot afterwards say: I purchased it for myself, write me another deed in my name. Maim. II, 5.



principal has given to the agent this wider authority, and the principal will have to bring witnesses to the contrary, if he wishes to be relieved of the agent's bad bargain.<sup>283</sup>

In all the cases where the principal is given a right to avoid the transaction because of the agent's acting beyond his authority, it must be noted that this right is conferred upon the principal alone. Where the principal is willing to stand by his agent's act, the third party cannot avoid it, on the ground that the agent went beyond his powers.<sup>284</sup>

The rules of law stated in the above chapters with reference to the principal's right to disregard all unauthorized acts of his agent, applies only in the case when the third party knew that he was dealing with an agent.<sup>285</sup> If the third party, however, did not know that he was dealing with an agent but thought that the agent was dealing for himself, the transaction will be regarded as valid between him and the agent, and the principal has no legal redress against the third party, but must sue the agent for any loss sustained.<sup>286</sup> Thus, the case noted above,<sup>287</sup> where an agent purchased land without a guarantee, and was compelled to take for himself and to re-convey it with his own guarantee to the principal, was explained by Rabbenu Nissim to refer to a transaction in which the principal was not disclosed. The agent, dealing in his own name, therefore had to stand by the purchase, while the principal, if he desired the land, could compel the agent to re-convey it to him with his personal guarantee.<sup>288</sup>

We note from this that Jewish law did not adopt the

<sup>283</sup> Tur, 182, 8, quoting RaMA.

<sup>284</sup> Cf. *באר הגולה* to Hosh. Mish., 185, 6.

<sup>285</sup> Jewish law does not hold that it is the duty of the agent to disclose his agency. cf. Rosh to B. K. 102b. Unless the seller, at time of sale, expressly states that he would sell only to him and not to anyone else; in that case he must specify the third party of his appointment, or acquire it for himself, and the principal will have to acquire it from agent. Cf. also above, note 61.

<sup>286</sup> Maim. II, 4; Hosh. Mish., 182, 2.

<sup>287</sup> Above, p. 185.

<sup>288</sup> Cf. Kesef Mishneh to Maim. I, 3.

ruling of the modern law with reference to the undisclosed principal.<sup>289</sup> Where the agent deals in his own name, and does not disclose the fact that he is dealing in behalf of a principal, the latter will have no claim upon the third party, and the third party will be able to say to him **לאו בעל את דברים דידי את** "you are not my adversary", I have no dealings with you. The third party, upon discovering that the transaction was not in the agent's own behalf, will also not be able to sue the principal for the same reason. Whether the principal could be sued by the third party if he makes use of the article purchased by his agent, and the agent refuses to pay, is a different question, and the decision will rest not upon the rules of agency, but upon the ordinary rules of quasi-contract.

Even when there is a dispute between the principal and his agent as to whether the agent fulfilled his commission or not, e. g., if the principal claims: I told you to sell the article for \$100, and the agent says: You told me to sell it for \$50, and I sold it for that sum, if the third party knew that he was dealing with an agent, he will have to return the article or money secured to the principal. This decision suffices to prove to what extent the rabbis went to protect the principal, and also to show how careful a third party had to be when he knew that he dealt with an agent.<sup>290</sup>

Where an agent disposes of his principal's property beyond the scope of his authority, as, for instance, where an agent sold an article which he held in his possession that belonged to his principal, without being author-

<sup>289</sup> The Common Law as well as the Roman clung to the doctrine of Privity of Contract. Contrary to this doctrine, modern law established the sweeping rule that an undiscovered principal may both sue and be sued upon a contract made in his behalf or to his secret use by his agent, to the same extent as a disclosed principal, although the third party gave exclusive credit to the agent supposing him to be the principal. *Cothay v. Fennel* 10 B&C 671; *Kayton v. Barnett* 116 N. Y. 625.

<sup>290</sup> Maim. II, 6. RABBI D (*ibid.*) disagrees with the decision of Maimonides and rightly says that it opens the way for the principal and the agent to conspire in order to get the article back, if they regret the transaction.

ized to sell it at any specified price, the third party will be in duty bound to return it to the principal.<sup>291</sup>

Where the agent has been appointed to deliver a debt due a third party and the third party happens to be indebted to the agent himself for a previous debt, the agent can set off or deduct from the money that he collected the amount due him, and the third party will have no further claim against the principal. This, however, applies only in the case where this party admits the debt, admits that it is now due, and also makes claim that he has no other possessions from which the debt can be paid. But if he denies the debt, or if he has other possessions, the agent cannot keep for himself any of the moneys he collected. Furthermore, if the agent refuses to give up the money, the principal can be sued by the third party for the amount.<sup>292</sup>

We have learned above<sup>293</sup> that when the agent was deceived in the transaction by the third party, even when the amount was a mere trifle (less than  $\frac{1}{6}$  its value), the transaction would be set aside. When, however, the third party had been deceived by the agent, the same rule does not apply and he is governed by the one-sixth limit allowed between parties dealing with each other in person.<sup>294</sup> While this view, given in the name of R. Jonah, is the accepted one, there is also a strong opposing view. Hai Gaon held that just as the agent so also the third party could set aside the transaction if the amount concerned by the agent's overreaching was even less than one-sixth. He compares this case to the one where the Bet Din, the Court, sells goods in behalf of orphans. There, the rule of overreaching is used for the benefit of the purchaser as well as for

<sup>291</sup> Maim. II, 7; Hosh. Mish., 185, 6; but see Isserles, *ibid.* So also in modern law; cf. Thompson v. Barnum 49 Iowa 392.

<sup>292</sup> Hosh. Mish., 125, 3. The modern law does not permit the agent to deduct or to set off a debt due to himself in a matter not arising out of the agency. Melvin v. Aldridge 81 Md. 650.

<sup>293</sup> Above, p. 183.

<sup>294</sup> Tur, 182, 9.

the orphans. R. Jonah, however, points out a distinct difference between the two cases, when the Bet Din sells for the orphan, it is at the same time the agent of both the orphan and the third party, hence the law of overreaching applies to both. Here, however, the agent does not represent the third party, and hence, the latter cannot invoke the benefit of this rule.<sup>295</sup>

#### PRESUMPTIONS OF LAW

Until there is definite notice of the principal's revocation of his agent's power, there is a presumption that the agent is authorized to carry out his commission, and the third party has the right to rely upon this presumption.<sup>296</sup>

There is also a presumption of law to the effect that *חוקה ששליח עשה שליחותו* an agent has done his duty and has fulfilled his commission, until the contrary appears.<sup>297</sup> This presumption has led the rabbis into a discussion of a very complicated nature. What would happen if A sent B to marry for him a woman whom he considered suitable, and B dies without A knowing with whom he entered into the marriage contract in his behalf? The presumption of law being that B fulfilled his commission, A would be prohibited thereafter from marrying any woman who had relatives living, lest his marriage would be one in violation of the laws of consanguinity.<sup>298</sup> His only remedy would be to marry a woman whose immediate prohibited family relations were all dead or one who never had any.

#### CONCLUSION

The subject of agency is closely allied with other subjects where certain topics play a most important rôle.

<sup>295</sup> The Rosh agrees with the latter view, which is accepted as the rule of law; cf. *פסמי הרא"ש* Ketubot XI, 17; Bet Yosef to Tur, *ibid.*

<sup>296</sup> *באר הטלח*, Hosh. Mish., 122, 2; cf. above, p. 138.

<sup>297</sup> Cf. *Gittin* 61a; Eben ha-'Ezer, 35, 14. The same presumption is met in modern law; cf. *Breed v. Breed* 55 N. Y. App. Div. 121, 67 N. Y. Suppl. 162.

<sup>298</sup> *Gittin* and Eben ha-'Ezer, *ibid.*

The writer has, therefore, limited himself to a discussion of those rules of law that belong to Agency in particular, and has omitted all discussions of those rules which, while applicable to Agency, form subjects in themselves. Thus he did not discuss the law pertaining to Oaths, though Oaths play a prominent part in the relationship of Agency, where there is a dispute between the parties with reference to the acts of the agent.<sup>299</sup> He has omitted also the law dealing with the eligibility of an agent to give evidence in a dispute in which he is an interested party, a subject well treated by all writers on Evidence in Jewish Law.<sup>300</sup> The writer has also deliberately omitted discussions of those laws that deal with agency in religious matters, e. g. the question of the priest, whether, when he performed the rites of sacrifice, he was to be regarded as the representative of the Almighty or the agent of the Israelite who brought the sacrifice; or the laws relating to the שליח צבור representative of the Jewish community in their religious service.

The writer believes, however, that a sufficient presentation has been made to prove how far advanced, nay, how almost modern, the Jewish rabbis were in their treatment of this complex relationship between a principal and his representative.

<sup>299</sup> For a discussion of this subject cf. Z. Frankel, *Die Eidesleistung der Juden*; J. E. Tyler, *Oaths*.

<sup>300</sup> Cf. Z. Frankel, *Der Gerichtliche Beweis nach Mosaisch-Talmudischen Rechte*; I. Blumenstein, *Die verschiedenen Eidesarten nach mosaisch-talmudischen Rechte*.



## ILLUMINATED HAGGADAHS\*

By RACHEL VISHNITZER, Berlin.

A SPANISH miniature of the first half of the 15th century<sup>1</sup> represents the Grand Master of the Order of Calatrava, Don Luis de Guzman, sitting upon a golden throne, holding in his right hand his sword, and above his head an angel waving a banner with a red cross on it. By his side at the steps of the throne are a Dominican and Franciscan monk. Vassals and knights wearing the red cross of the Order are standing in long files. Lower down, before the basement of the marvellous architectural composition in which we admire the round Moorish dome, the slender horse-shoe arches and the Gothic pinnacles, there is a brilliant gathering of knights. The eye of the spectator is delighted with the rich variety of colors in the fur-trimmed tunics, shoes, girdles, swords, and the triumphant red of the innumerable crosses.

But there is someone amidst this distinguished company, a man in a long, greyish mantle, falling down in heavy deep folds, a man wearing a big badge on his right shoulder.

This man is Moses Arragel, the Rabbi of Guadalajara, a Castilian Jew. The Grand Master of the Order of Calatrava asked the learned Rabbi, who by the way was a vassal of the Order, to furnish a commented and illustrated Bible, "una biblia en romance, glosada e ystoriada"<sup>2</sup>.

\* The article is based chiefly on a comparative study of the Haggadahs Or. 2737 Or. 2884, Or. 1404, Add. 14761, and Add. 27210 in the British Museum, MS. 126 of the Frederick David Mocatta Library in London (Catalogue, 1904, p. 424), and the Spanish Haggadahs described in H. Mueller, J. Schlosser and D. Kaufmann, *Die Haggadah von Sarajevo*, Wien 1898.

<sup>1</sup> Casa de Alba, Madrid, reproduced in Duke of Bervick and Alba, *Noticia historica y genealogica de los estados de Montijo y Teba, segun los documentos de sus archivos*, Madrid 1915, pl. A opp. p. 18.

<sup>2</sup> S. Berger, *Les Bibles Castillanes*, Romania, 1899, 28e année, p. 522.

Moses Arragel undertook the task of revising the Castilian Bible translation according to the Hebrew tradition and completed his work about 1430. The miniature on the title page of the Bible shows the ceremony of the presentation.

Rabbi Arragel looks very dignified in the picture, and an innocent observer would surely take the brown badge on his shoulder for a decoration. But unfortunately the Jewish badge was not an honorable distinction. Quite the contrary.

The Jews made innumerable efforts to be freed of the badge, whole communities pleaded before the authorities for the abolition of the badge or at least for a reduction of its size.<sup>3</sup> The Jews of Catalonia, for instance, had secured the privilege to hide the degrading mark, when wearing the long hooded cloak. It seems, however, that Moses Arragel, a Castilian, did not enjoy even this modest privilege. The miniature in the Olivares Bible, as the Castilian Bible is called, is an eloquent illustration to the paradoxes of Jewish realities. There we have a Jew enjoying the highest marks of esteem and the centre of a solemn performance at which the highest dignitaries of the Catholic Church took part, while other Jews represented on the same frontispiece are being succored, fed and clad by the merciful friars. On the right side below there is a Jew discussing with a knight, who is piously listening to the eagerly gesticulating speaker. There is, as may be noticed, give and take, and exchange of services, an atmosphere of genuine humanity. The defamatory mark on the shoulder of the Rabbi, the large badge on his long robe, strikes us as an entirely unexpected feature

<sup>3</sup> F. Baer, *Studien zur Geschichte der Juden im Koenigreich Aragonien waehrend des 13. und 14. Jahrhunderts*, Berlin, 1913, p. 186.



in that bright picture. But then we have to recollect that only some 60 years after Rabbi Arragel completed his marvellous work the Jews were altogether expelled from Spain, and that when in 1422 Friar Arias de Encinas, the guardian of the Franciscan Monastery at Toledo, addressed him as "Raby Mose amigo" only 31 years had elapsed since the great catastrophe—the massacres of the Jews all over Spain in 1391, during which many perished, others became homeless and deprived of means of existence.

The situation of the Jews indeed was a peculiar one. They were honored and they were despised, they were exalted and they were abased. In this atmosphere they had to live, to work, in this atmosphere they carried on scientific and artistic activities. History shows even two periods of upward development in Jewish intellectual culture in Spain. For the student of the artistic production of the Jews it is particularly noticeable that the Spanish Jews played a considerable part in literary work closely connected with the graphic arts. They wrote and translated treatises on astronomy, medicine, geology, geography, and the occult sciences, all of which required explanatory illustrations.

Writers like Ibn Sid, the Hazan of Toledo, who edited the famous astronomical tables, Judah ben Mosca, Abraham and Samuel Levi, who translated Arabic astrological writings, Judah Cresques, who compiled the Catalan Map, all of them were connected with calligraphists and illuminators, who copied their writings, decorated and illustrated them, even as Moses Arragel was necessarily connected with the artists of Toledo who illuminated his work. However, as Arragel's Bible was to be devoted to

\* S. Berger, *Les Bibles Castellanes*, p. 522.

the use of Catholics, he seems to have had scruples and hesitated to supervise the illustration.<sup>5</sup> He pointed to the interdiction of images according to the Decalogue. But the Friar Arias de Encinas who was to collaborate with the Rabbi obviated the difficulty by offering to lend to the illuminators a beautifully illuminated manuscript belonging to the Cathedral of Toledo as a model.

The Catalan Map<sup>6</sup>, compiled in 1375 by Judah Cresques, a Jew of the Isle of Majorca, was an artistic work of lavish splendor and cultivated taste, painted in bright, resonant colors, embellished with gold and silver, ornamented with elaborate pen-work in various inks, with allegorical figures, symbolical signs, armorial bearings, and architectural accessories. The writing was executed in beautiful characters, with illuminated initials. The astronomical tables, the Signs of the Zodiac, the four seasons, appealed strongly to the imagination of the illuminator who treated the geographical map as wonderful fairy-tales.

Another scientific work, the treatise on precious stones, the "Lapidario" of 1279,<sup>7</sup> was adorned with hunting scenes, with chimeric beasts, with ships and castles, with masks, musical instruments, arabesques, acanthus, and other scroll ornaments. It is a very significant fact that in the 13th and 14th century the graphic arts were no longer confined exclusively to religion; as may be ascertained from even the few quoted examples, they had been secularized.

<sup>5</sup> S. Berger, *op. cit.*, p. 523.

<sup>6</sup> No. 119, *Catalogue des MSS. espagnols de la Bibliothèque Nationale*, reproduced in A. E. Nordenskjöld, *Periplus*, Engl. Edition, Stockholm, 1897, pl. XI-XIV; *Notices et extraits des MSS. de la Bibliothèque du roi et autres bibliothèques*, publiés par l'Institut Royal de France, T. XIV, Paris, 1843, 2. partie, Buchon et Tastu, p. L-152, fac-similes lithographiques (with the Catalan text of the map and a French translation of the same). Very good reproductions in *Choix des Documents Géographiques conservés à la Bibliothèque Nationale*, Paris, 1883, pl. IX-XX, héliographique plates.

<sup>7</sup> *Lapidario del Rey D. Alfonso X*, Codice original. Published by Don A. Selfa and Don H. Rodríguez y Sagasta, with preface by Con J. Fernandez Montana, Madrid, 1881.

Book illumination began now to spread through the medium of literary works of general use. In consequence of it the Jews accepted more willingly features of Christian illumination. They borrowed them more light-heartedly from secular books. That we are aware of the religious origin of this book illustration does not prove at all that they noticed it as well. They very likely did not.

Jewish illuminated books are to be found in all the great collections of Europe. The British Museum, the Mocatta Library, the Jews' College in London, the Bibliothèque Nationale in Paris, the Asiatic Museum in Petrograd, the Berson Museum in Warsaw, the Bodleian, Cambridge, Manchester, Nuremberg, Frankfurt (on the Main), Darmstadt, Munich libraries etc., private collections like that of Mr. Elkan N. Adler, Dr. Gaster, D. Guenzburg, M. Kirschstein, D. Sassoon, and many others possess precious specimens of Jewish illumination and penmanship. Among these illuminated MSS. are to be found Bible codices, prayer books (*mahzorim* and *siddurim*), theological, philosophical, and medical treatises, law books, *ketubot* or marriage certificates, Purim rolls, Haggadahs, and various other documents.

As an illustrated book the Book of the Passover Service occupies a prominent place among them. The Haggadah was not intended for the Synagogue Service; written for laymen, for the use of the family and especially for children, the Haggadah was the most popular book. In Christian book illumination we realize a similar development. The Books of Hours, the Psalters, the Breviaries, since they were copied for laymen, presented in fact a far larger field for the fancy of the miniaturist than the MSS. strictly for the service in the Church. In the present state of

investigation of the illumination of Hebrew MSS. it is premature to try to assign to the Haggadah a definite place. We may feel inclined to represent the Book devoted to the Passover Service as something very exceptional compared with other kinds of devotional writings. But putting aside the Bible Scrolls, which were never illuminated,<sup>8</sup> we find that various Hebrew MSS., and among them also Bible Codices, have been ornamented and illustrated as well. The MSS. Add. 11639, Or. 54.b in the British Museum (examples of illustration in Margoliouth, *Hebrew and Samaritan MSS. in the British Museum*, III, pl. IX and X), written in 1278, of French provenience, is an encyclopedia not only with regard to its contents—it includes the Pentateuch, the Targum, rules for the Seder, the marriage ceremony, poetical pieces, and so on—but particularly as an illustrated book. It is true, however, that in Bibles of Spanish origin more reserve is to be noticed. In the incomparable Kennicott Old Testament (Boldeian, 2322), copied and illuminated in 1476 in La Corona by Joseph ibn Ḥayyim, there are only a few illustrations, the whole illumination being of a merely ornamental character.

The text of the Haggadah presents a continuous narrative, which is plain and clear, being thus adapted to the mind of the child. It is an educational book and that accounts for the character of its illustrations. The text of the Passover Service as constituted in the thirteenth century consists primarily of an exposition of some verses from the 5th book of the Torah, beginning with: "A wandering Aramean was my father, and he went down into Egypt, and sojourned there, few in number, and he became there a

<sup>8</sup> Dr. M. Gaster, "Hebrew Illuminated MSS. of the Bible of the IXth and Xth century", in *Proceedings of the Society of Biblical Archaeology*, 1900, p. 226.

nation, great, mighty, and populous." There were added to these verses a reflection on the Paschal symbols by Rabban Gamaliel and several Psalms.<sup>9</sup> The subject of the Haggadah is thus built up upon two fundamental facts of the ancient Jewish history: the migration of the Israelites into Egypt and the Exodus. The "stuff" of the narration had to be grouped round these chief events. The illustrator handled these events in their historical developments. For the sake of clearness he even enlarged the frontiers of the tale and particularly indulged in his naive descriptive way in the retrospective direction. In two Haggadahs of the British Museum, in Or. 2884 and Add. 27210, he simply begins *ab ovo*, with Adam and Eve. In the Haggadah of Sarajevo he does not hesitate to start with the beginning of the beginnings—the Creation of the World. In the Crawford Haggadah,<sup>10</sup> and in another version of it, the Or. 1404 as well as in Or. 2737 of the British Museum, we are introduced *in medias res*, to the story of Moses and his divine mission. The three latter Haggadahs mark the transition towards a stronger systematizing of the subject treated and a more intimate adaptation to the Haggadah as such.

In the historical series of pictures beginning with the life of the first family there is a long way to pass till the Pass-over event. We notice there Noah enjoying the wine of his vineyard and being somewhat annoyed with the consequences of his too abundant libations; we watch the building of the fatal tower of Babel; we admire the peaceful idyllic scene of Abraham entertaining the angels, and of course we would not miss the sceptical smile of the incredulous Sarah. The wife of Lot was petrified, but Isaac

<sup>9</sup> E. Baneth, *Der Sederabend*, Berlin 1904.

<sup>10</sup> Now in the Ryland Library, Manchester.

has just escaped his horrible fate. He will afterwards have much trouble on account of his camouflaged son Jacob. And then there will be plenty of dreams, dreams of anxiety and dreams giving expression to the desire of fulfilment, Jacob beholding the ladder leading direct to heaven, Joseph with his ambitious visions, Pharaoh with his nightmares. Now we have reached at last the genuine soil of the Haggadah. Pharaoh will be a constant witness of the further rather turbulent events. He will have to be pleased with the ward of his eccentric daughter, the wonder child Moses, and he will have to engage in tedious pourparlers with those revolutionaries, the ungrateful foster-child and his verbose brother, Aaron. Pharaoh will make promises like a diplomat of the old school, and like him he will not keep them; pressure will be exercised and promises will again be given; new intrigues and plagues will follow, and, finally, Pharaoh will have to give way. The Jewish people are leaving Egypt; Miriam is dancing and singing with her companions. The Miriam picture, the scene of glory, completes the graphic narration.

In this rather schematical exposition the various versions of pictorial interpretation could not be considered, each one requiring a separate study. We have not mentioned in the series of pictures those devoted to the liturgy of Passover. In the treatment of these scenes there are to be found many divergencies in the various Haggadahs. The Sarajevo Haggadah, for instance, the oldest illustrated one known to us, shows only a few pictures of a liturgical character. There we have on Fol. 33<sup>11</sup> the distribution of Mazzoth treated in the same monumental style as the whole historical series, on Fol. 26<sup>12</sup> a text illustration rep-

<sup>11</sup> *Die Haggadah von Sarajevo*, pl. 33.

<sup>12</sup> *Ib.* p. 45.

representing already the characteristic ornamented shield with the saying "This Mazzah", on Fol. 27<sup>12</sup> another text illustration with two figures carrying the bitter herbs, and on Fol. 31<sup>13</sup> the Seder as an unconventional text illustration again.

In Or. 2723 we have after the Miriam picture 10 scenes dealing with the Seder and the preparation of the Service. They form a continuation of the historical scenes and are treated, like the latter, as full page miniatures. One of these liturgical scenes may be seen in "Die Haggadah von Sarajevo", pl. V. In Add. 27210 the Miriam picture is grouped with three "preparation" scenes on one page, in Or. 2884 where the set of pictures shows striking similarity, from the iconographic point of view, with Add. 27210, there is only a slight divergency in the grouping of the pictures; thus the Miriam picture is on one page together with the Exodus (fol. 16b); the distribution of Mazzoth is as in Add. 27210 on the upper part and the cleaning of the house below (fol. 17a). There are, however, in Or. 2884 two more pictures: "The Synagogue" and the "Seder" (reproduced in "Die Haggadah von Sarajevo", pl. VI). In Or. 1404 (and in the similar Crawford Haggadah) the liturgical scenes are grouped together on one page (fol. 17b), the upper part of the page includes a miniature representing the preparation of the lamb, and below there are two Seder scenes each with one couple<sup>14</sup>. Another Seder is represented on a border illumination (fol. 8). In the Haggadah Add. 14761 there are more liturgical scenes than in all the other Haggadahs, and there are no historical miniatures at all. We notice in the Spanish Haggadahs of the British Museum on the whole a develop-

<sup>13</sup> *Ib.* p. 3.

ment of the liturgical subjects in comparison with the earlier Haggadah of Sarajevo. This development does not, however, always mean the degeneration of the historical subjects; at any rate during the period of the 13th and 14th century there is no evidence of a supplanting of historical miniatures, and the absence of historical illustrations in Add. 14761 may be as well attributed to a loss of the set, the more so as in the similar Haggadah designated in "Die Haggadah von Sarajevo" as the second of those belonging to the Library of Prof. Kaufmann, historical subjects are also treated.

The treatment of the liturgical scenes shows a great intimacy of the painter with the Passover rite and the customs of the Jews. In detailed pictures we see how the house is being cleaned, swept, and washed. We watch the subsequent manipulations of the baking of the Mazzoth and the roasting of the lamb on the high-roofed fire-place. The table is laid with a beautiful white cloth interwoven with blue arabesques, sometimes with hexagrams; the maid is carrying on her head a basket with the Paschal dishes; the family is seated round the table, the father in his armchair at the head of the table, the mother and the children on the longer side, facing the spectator, and a guest at the other end, opposite the father, seated like the host comfortably in an armchair. Everybody has his cup of wine, and the largest cup, a huge one in the middle of the table, is the cup for the prophet Elijah. In the Haggadah Add. 14761 in one of the Seder scenes (fol. 19b) every member of the family is resting his elbow on the table, a reminder of the ancient custom of eating in a recumbent position, a custom which the Jews observe to this day at the Seder. In Or. 2884 in the scene re-



produced in "Die Haggadah von Sarajevo", pl. VI. 2, the child is putting questions to the father pointing with his left hand to a copy of the Haggadah on the table and raising his right hand as children usually do at school. The guest is also discussing some points with a member of the family. The mother is listening to the recital of her son. The room in which the Seder is performed is mostly vaulted and sometimes magnificently draped with curtains; in the Sarajevo Haggadah it is still plain, and the whole scene is treated in a free way, as a realistic picture taken directly from life. In the other Haggadahs, with the growing importance of the Liturgy, the desire is manifested to give an adequate expression of the dignity and solemnity of the Seder performance. The illuminator who worked at the Haggadah Add. 14761 achieved the most marvellous effects in his Seder scenes which represent the different stages of the Passover Service. One of these scenes (fol. 28 b.) he enclosed most beautifully in a framing consisting of variegated shafts, pomegranates, arabesques and heraldic devices, rosettes, buds, and acanthus leaves, lions, dogs, peacocks, and chimeric beasts, and musical instruments. At the top of the miniature there is a compartment reserved for the saying: "This is the bread of affliction", which saying has been interpreted in the picture below. On another folio enclosing the Seder scene (fol. 17b.) there are amoretti, butterflies, a hunting scene, and so on.

The liturgical part of the Haggadah is often completed by portraits of famous teachers, who have commented on, or developed during the ages, the Passover rite, men like R. Eliezer, R. Joshua, R. Eleazar ben Azariah, R. Akiba, and R. Tarfon. R. Akiba and Rabban Gamaliel are the most familiar heroes of the Haggadah illustration.

These portraits are generally treated as border illuminations. Many other liturgical pictures faithfully follow the text, so that in Add. 14671 almost every page includes an illustration, which either precedes the text as an upper border or covers the fore-edge or the lower margins. In addition there is frequently an illustration in a square framing interrupting the text somewhere in the middle of the page. This sort of composition we find also in the extremely fine miniatures of the "Second" Kaufmann Haggadah, which shows many other common features with Add. 14671 of the British Museum, a fact not noticed by the authors of "Die Haggadah von Sarajevo". Another fact ignored by them is the striking similarity, almost identity, of the Crawford Haggadah and the Or. 1404 of the British Museum, a fact already referred to in Mr. Margoliouth's Catalogue. The publication of H. Mueller, J. Schlosser, and D. Kaufmann is not exhaustive with regard to the Haggadahs of the British Museum. Mueller and Schlosser did not know them from personal observation, but were bound to form their opinion from a few photographs of these MSS. That may explain their error in assigning the Haggadah Or. 1404 to the first half of the 15th century<sup>14</sup>, whereas they date the Crawford Haggadah at the end of the 13th century<sup>15</sup>. In my opinion Or. 1404 is a more or less faithful copy of the Crawford Haggadah made rather early in the 14th century. The date of sale found in it (1402) speaks against Mueller and Schlosser's conjecture. The elaborate, dark shadowing of the faces, which we find sometimes also in Flemish paintings of the Renaissance, and the grey beards must have been added

<sup>14</sup> The corresponding leaf of the Crawford Haggadah is reproduced in "Die Haggadah von Sarajevo", plate II.

<sup>15</sup> *Die Haggadah von Sarajevo*, pp. 95-111.

much later—that may account for the thickness of the paints in these particular places. On the whole the Crawford Haggadah and Or. 1404 belong to the early type of Haggadahs. A characteristic pointing to this is the meander and the folded tape motives in the framings of the miniatures, which generally begin to disappear at the end of 13th century<sup>16</sup>. We have them also in the MS. of the Mocatta Library including, besides Canticles, the book of Ruth etc., also “A lesson for the first day of Passover”. This MS. is remarkable, for it shows motives of ornamentation which occur as early as in the 9th and 10th century in Hebrew Bibles, of which Dr. Gaster possesses some specimens, reproduced in his “Hebrew Illuminated Bibles of the IXth and Xth Century”, 1900. These motives are small gilded rosettes and concentric circles of bright coloring. They are a feature of Oriental illumination as well as the motive in the shape of a cucumber (*Gurkenmotiv*) which we also have in the elaborate interlacings formed with minuscular writings on the margins of the Mocatta MS. It is very likely that in the Mocatta MS. which has no illuminations we have even an earlier specimen than the Haggadah of Sarajevo.

Some anachronism may be found also in the Haggadah Or. 2737, where we see the wave motive with acanthus leaves treated in the plain geometrical way, a feature of Moorish ornamentation, and architectural façades with horse-shoe arches and colored tiles in bright yellows, reds, and greens. Similar architectural compositions executed in the same scheme of coloring are to be found in the

<sup>16</sup> The type of the faces of the grotesques in the Haggadah text, which seem not to have been retouched, is very similar to that of the chimeric beasts in the “Lapidario”, *op. cit.*, p. 68.

"Codice Albeldense o Vigilano" preserved in the Library of the Escorial (10th century<sup>17</sup>).

The full page illustrations are enclosed in Moorish arcatures, a motive which was repeated later in our ketubot, particularly in those of Oriental origin. In our Haggadah Or. 2723 which with regard to the Gothic character of the figures cannot be of earlier date than the 13th century (Schlosser assigns it even to the beginning of the 14th<sup>18</sup>) the architectural framing of the miniatures may be a copy of earlier specimens going back to the 10th century.

Now we have to deal with two Haggadahs which present some very interesting points. These are Or. 2884 and Add. 27210. Schlosser places the former in the 14th century and the latter at the beginning of the 14th<sup>18</sup>. I quite agree with him with regard to Add. 27210, and would like only to add some information on this Haggadah. It may be instructive to compare it with another Hebrew MS. of the British Museum, Add. 11639 (Or. 54 b) already mentioned, which has the advantage to be dated (it includes a calendar opening with the year 1278). The style of the miniature is the same—it is the style of French Gothic—with the only difference that in Add. 27210 the architecture is a little more advanced, and that the figures have that exaggerated bending attitude which is a characteristic of later Gothic. The treatment of the faces which are only drawn with a pen with a bit of pink on the cheeks is very much the same in both MSS. It should be mentioned in addition that in Add. 11639, fol. 333 b, there is an escutcheon with an eagle in gold on a blue background;<sup>19</sup>

<sup>17</sup> Reproduced in *Museo Español de Antigüedades*, vol. III, opp. p. 509.

<sup>18</sup> *Die Haggadah von Sarajero*, pp. 95-111.

<sup>19</sup> Another eagle of the same design but on a red background is to be found on fol. 317 b, reproduced in Margoliouth, *Hebrew and Samaritan MSS. in the British Museum*, vol. III.

the same may be distinguished on the shields of the Egyptians in Add. 27210, fol. 14 b.

There is no doubt that the miniatures in the Haggadah Add. 27210 are of the French Gothic style, and it is only surprising to notice that the illustrations in the Haggadah Or. 2884, though they are very similar to them from the iconographic point of view, that is with regard to the handling of the subjects, are quite different with regard to style. There we have that admixture of Moorish and Gothic features which points rather to Spain, but at any rate not to France. The difference of technique and style is so considerable that we cannot speak of direct influence; there is nevertheless an incontestable relationship between the two MSS.; they may have been derived from the same source, but had undergone very different influences; one became a rather conventional but technically irreproachable French "Bible historiée", the other a more provincial, spontaneous and personal, technically inferior, but invaluable attempt at Jewish illustration.

The dating of the Haggadah Add. 14761 we have reserved to the end; it is chronologically perhaps the latest of our Haggadahs. We have alluded above in connection with the contents of its illumination to the advance of historical pictures and the lavishness of decoration. Schlosser is right in adding a question mark to his rather doubtful date. He speaks of the beginning of the 14th century<sup>20</sup>. Very fortunately we have in the Bodleian Library a Commentary of Rashi on the Pentateuch, written by Meir ben Samuel in 1396<sup>21</sup>. This MS., executed in square Spanish writing, exhibits much affinity with our Haggadah Add. 14761 with regard to its decoration. There

<sup>20</sup> *Die Haggadah von Sarajevo*, pp. 95-111.

<sup>21</sup> 187. Can. Or. 81.

we have the same peculiar ornament of scrolls and heavy broad leaves, gold dots, acorns or buds, the graceful flamings, griffins, with their fine long legs. Even the small square framings with semi-circular segments on the sides occur in both MSS. On page 96 of the dated MS. there is to be found a composition which recalls the marvellous leaves of the Haggadah Add. 14761 with their gorgeous ornamentation. In both MSS. the marginal decoration takes an unusual width. There is only one Haggadah which, as mentioned above, shows similarity with Add. 14761, that is the "Second" Kaufmann Haggadah. Now we may group the dated MS. of the Bodleian Library (of 1396), the Haggadah of the British Museum, Add. 14761, and Kaufmann's Haggadah together. In the "Second" Kaufmann Haggadah we have (reproduced on pl. XXXIII and XXXIV in "Die Haggadah von Sarajevo") the same scrolls with trifolium leaves, some round, others pointed, and the broad, heavy leaves as on fol. 51 in Add. 14761. Great similarity is shown in fol. 71, in Kaufmann's Haggadah (pl. XXXIV in "Die Haggadah von Sarajevo") with fol. 64 b in Add. 14761. In both we see a man sitting and raising his arm with a cup of wine. The same initial word is on the head of the miniature. In Kaufmann's specimen there are two other figures in addition, small boys, which are missing in Add. 14761. In the Exodus scene in Add. 14761, fol. 66 b, Moses wears a high hat with a long feather; this is also his head dress in the scene of the Exodus in the Kaufmann Haggadah (pl. XXXV in "Die Haggadah von Sarajevo"). Another illumination of the Kaufmann Haggadah—an arabesque in the middle of the folio and four figures in the corners blowing long trumpets (pl. XXXIII in "Die Hag-

gadah von Sarajevo")—shows a certain similarity with the miniature on fol. 61 in Add. 14761 (pl. V. 1 in "Die Haggadah von Sarajevo"). We recognize also in both Haggadahs the dark-faced warriors riding on cocks (in Add. 14761 one of them is riding on a lion). The description of fol. 78 of the Kaufmann Haggadah, as given on p. 197 in "Die Haggadah von Sarajevo", corresponds perfectly also to the Seder picture on fol. 19 b in Add. 14761. There is even the same initial word in both pictures.

There are on the whole many common features of composition, design, and initial illumination in these MSS. A striking characteristic of both Haggadahs is, in spite of the Gothic architecture, the scarcity of Gothic ornamentation. The broad, heavy leaves have nothing in common with pointed, sharp, hard leaves used in Gothic decoration. Those gorgeous smooth leaves begin to appear in the 14th century in Italy and later on in other countries as well. The influence of French Gothic never was very strong in Italian ornamentation, nor was it ever very accentuated in Spain, where Moorish and Italian elements counteracted French ideas of decoration. Italian influences may have obtained a stronger hold in Spain since the Spanish dynasty was connected with Naples and Sicily (James II, 1327–36, succeeded to Sicily; Alphons V, 1416–58, was king of Naples and Sicily; Ferdinand II, 1474–1516, united the Spanish crown with Naples and Sicily). It should not be a matter of surprise to see the Italian decoration appear in Spain beginning with the middle of the 14th century. There is one feature in the Haggadah Add. 14761 which points at least to 1340<sup>22</sup>—the party-colored dresses of the merry musicians on the marvellous apotheosis of Maz-

<sup>22</sup> J. Robinson Planche, *A Cyclopaedia of Costume*, 1879, II, p. 85.

zoth (fol. 61, reproduced on pl. V. 1. in "Die Haggadah von Sarajevo"). In the Kaufmann Haggadah the costumes also betray the trecento, the sleeves have become wider, the dresses more ample. The faces and figures, though of the same type as those in Add. 14761, in the Sarajevo Haggadah, and in the "Second" Kaufmann Haggadah, are more expressive, the movements less conventional, the nude is of a better design (compare the maids of the Daughter of Pharaoh as represented in the different Haggadahs). There is to be noticed also, for the first time in our study, an attempt at perspective drawing in Kaufmann's Haggadah. Besides the armchairs with little scrolls, which are a familiar feature of all the three Haggadahs, there occurs a chair designed not as usual en face or en profile, but already with an attempt at foreshortening, en trois quarts (pl. XXXIV in "Die Haggadah von Sarajevo").

Is there any direct relationship to be seen between the Kaufmann Haggadah and that of the British Museum? Besides the many features of similarity, there are some which are even perfectly identical, as, for example, the ornamentation in the framing of the pictures. It is of course impossible to say anything on the coloring of the illumination of the Kaufmann Haggadah without seeing the original, but the few words of M. Mueller on the "coloristic gift" of the illuminator, on "the variety of shades, held together with the deep purple of the backgrounds",<sup>23</sup> suggest precisely the color scheme of the Haggadah of the British Museum—of our Add. 14761, and also of the Bodleian MS. of 1396.

M. Mueller thinks that that "Second" Kaufmann Haggadah was illuminated in Italy, perhaps in Genoa,

<sup>23</sup> *Die Haggadah von Sarajevo*, p. 188.



on the frontier of French and Italian influences. He points to the *Messale detto dell' incoronazione di G. Galeazzo Visconti*, illuminated in 1395<sup>24</sup>, which, although it exhibits many common features of style (particularly the broad, heavy leaves of the ornamentation), shows no closer affinity with the Kaufmann Haggadah. It should also be noticed that the Kaufmann Haggadah is written in square Spanish characters, identical with those of Add. 14761. In addition we have in the Kaufmann Haggadah (fol. 66, reproduced on pl. XXXIII in "Die Haggadah von Sarajevo") the escutcheon of a red castle on a gold background and (on fol. 84.) the Aragonian red and gold stripes. The castle belongs, however, to the armorial bearings of Castile. Castile and Aragon were united in 1479, but the heraldic devices of both kingdoms often occur simultaneously in the same books at an earlier date, for instance, in the *Cantigas de Santa Maria de D. Alfonso el Sabio*<sup>25</sup>, in the illustrations of which MS. the king of united Castile and Leon appears with "castles and lions" on his escutcheons and the king of Aragon with his red and gold stripes. Shields with vertical stripes occur also in the Haggadah Add. 14761, although they are in gold and blue. The Haggadah of Sarajevo also contains the Aragonian stripes and in addition a wing (red on gold), which I was fortunate enough to find (there in gold on red, with a hand carrying a sword) on the armorial bearings of Enrique II of Castile and Leon, in the 14th century.<sup>26</sup> The gold wing may have been used in Spanish heraldry earlier of course. There is another heraldic sign which is a constant feature

<sup>24</sup> Reproduced in Luca Beltrami, *L'arte negli arredi sacri della Lombardia*, Milano, 1897, pl. V111.

<sup>25</sup> *Las public. la R. Academia Espanola*, Madrid, 1885, p. 8.

<sup>26</sup> *Museo Espanol de Antigüedades*, Don Jose Maria Escudero de la Pena, "Signos Rodados de los Reyes de Castilla", vol. VI. p. 247.

in Jewish illumination—the fleur-de-lys. The French lilies occur very early in Spain and in other countries, so that their presence in a MS. does not help very much to fix its origin. The sponsor of Enrique II, Dona Juana Manuel, is represented on a round seal with a fleur-de-lys in her right hand. Don Jose Fernandez Montana<sup>27</sup> points in addition to the great importance of the family Lison in Spain (which carried, as the name suggests, the lilies in their escutcheons) since 1380.

R. Todros ha-Levi, a Jew from Toledo, carried a fleur-de-lys on his seal in the 14th century (now in the British Museum). The Moorish crescent and the star are also a feature of Hebrew illumination; we find them already in the Mocatta MS. combined there with the hexagram, or the two superimposed triangles<sup>28</sup>. The hexagram is met with in ancient times on Jewish tombs and Synagogues<sup>29</sup>. We find it also in Mohammedan sepulchral art, as, for instance, on the Tomb of the Great Mahmud (A. D. 997–1030) in the plain of Ghazni. In the Middle Ages the hexagram is already a feature of Moorish ornamentation and is found also in Christian art. In the famous Arundel Psalter of 1380 it is used as a filling-in for two initials in white on blue background. It appears there also once combined with the fleur-de-lys. In our Haggadahs the hexagram—or should we call it the Magen David?—is very often represented. It is interwoven in the table cloth in the Haggadah Add. 14761, we have it in the Mocatta MS., and in the Haggadah Add. 27210 there is a hexagram in

<sup>27</sup> "Codice Hebreo de la Biblia en el Monasterio del Escorial" in *Museo Español de Antigüedades*, vol. VIII, p. 85.

<sup>28</sup> *Catalogue of the Anglo-Jewish Historical Exhibition*, 1887, compiled by J. Jacobs and Lucien Wolf, London, 1888, ill. opp. p. 138.

<sup>29</sup> Dr. Alfred Grotte, "Die Bedeutung der Galiläischen Synagogenausgrabungen fuer die Wissenschaft", in *Monatsschrift fuer Geschichte und Wissenschaft des Judentums*, 1924, LXV, pp. 16–31.

gold with blue green fillings. The motive of the hexagram has been used for many elaborate patterns, sometimes it was combined with scrolls, or inscribed in a circle and in a square or encircled with segments of a circle etc. Arabesques of various other designs generally occur on the same pages in the Haggadahs with the hexagrams, so that it is difficult to say whether the illuminator assigned to the hexagram a particular meaning. The arabesque of superimposed squares appears, for example, mostly as a pattern on the Mazzoth in the scene of the preparation of the Mazzoth and in the Seder scene. It seems that, owing to this custom of embellishing the Mazzoth with geometrical patterns, the arabesque had an emotional significance, and that explains why the saying "This Mazzah..." in the Haggadah is very often interpreted with a beautiful arabesque of intricate design and bright coloring, glowing with scarlet, gold, green, and blue.

The hexagram was an occult sign, occurring in writings on magic, in the Cabala, and even in modern times in theosophic literature. The hexagram belonged to the common symbolic language. It may be that the Portuguese Jews played a particular rôle in the spreading of it, and in the first place among their brethern all over Europe. Through the Spanish emigrés the hexagram may have been introduced to the Jews of Eastern Europe; so we find a hexagram on a Jewish seal in Shavorka, a Ukrainian township, in 1544 (the Moorish crescent and the star on the seal of a Jew in Medjibodj in Podolia from 1543 must have similarly made its way from Spain), then in 1627 on a Jewish seal in Prague and in Kremsier (Moravia). The hexagram, after having been an individual mark, became the sign of the whole community. Later on we see it in

Dresden, Kriegshaber, Beuthen, and so on<sup>30</sup>. Another pattern of Oriental origin we meet with in the Spanish Haggadahs is a shield, sometimes in the shape of the cucumber (Persian motive) filled with flourishes, which later on acquire a Gothic outline. The regular appearance of this motive should be mentioned as it may have had some significance, and it points in any case to Oriental influences which very strongly affected Hebrew illumination in the Middle Ages.

The more we examine blazons, geographical maps, astrological writings, and other secular MSS. in Spain, the more we feel convinced that there has been a close relation between these productions and the Jewish illuminated MSS. Most of the features we have examined are to be found in those documents too. We have there stars in the shapes of the hexagram in the "Lapidario", the book on precious stones compiled with the help of Jewish scholars, we have the fleur-de-lys, the heraldic lion, stars and stripes, the crescent and the hexagram on the famous map, compiled by Judah Cresques, the Jew. The crescent and also the hexagram are drawn there on the flags of Turkish provinces. The Catalan map gives plenty of motives for the Haggadah; there are camels, goats, even the dapple-gray horses of the Haggadah Add. 14761 are to be found there and the bundle of rods in the hand of the camel driver on the map looks exactly like the bundle of rods with which the Egyptian task-master is striking Hebrew slaves in the Haggadah.

Christian iconography has of course also exercised a considerable influence on the Haggadah illumination. The wife of Moses going with the children to join her father

<sup>30</sup> See in the Jewish Encyclopedia, in Russian, "Seals" vol. XII, reproduced on columns 489-492.

looks very much like Mary on her flight into Egypt, Miriam and her dancing companions remind us of the virgins of the Zodiac in Christian MSS., the architectural framing of the Seder scenes is composed quite similarly to the arcatures enclosing the scene of the last Supper. But these are only superficial features of similarity; there is no real affinity between the Haggadahs and Christian religious illumination. The Jewish family participating in the Passover service is very strongly characterized in the attitude of the performers of the rite—the father, the child, and the guest; and also in the attributes of the performance: the copies of the Haggadah on the table, the cushion on which the father is resting, etc. It may happen to the thoughtless illuminator that in copying a divine figure from a model book, he reproduces also the halo round its head, but these are rare exceptions (once in the Haggadah Add. 27210 where the miniatures exhibit a very strong French influence, and in Kaufmann's "Second" Hagadah, pl. 103, mentioned in "Die Haggadah von Sarajevo", p. 198).

The Hebrew writing of the Spanish MSS. of the 13th and 14th century is exceedingly plain, bold, and legible. All the Haggadahs we have examined are written in those square "Spanish" characters<sup>31</sup>. The lettering is executed in black ink, the initial words are generally of burnished gold or silver, outlined with red ink. The writing is of a considerable size and rather massive in execution. We can easily distinguish it from the Hebrew Franco-German handwriting, which is of a more flexible articulation and undulating outline. The Hispano-Hebrew writing being more

<sup>31</sup> I am very much indebted to Dr. H. Hirschfeld of the Jews' College (London) who kindly helped me in verifying the calligraphic features of the writing of the Haggadahs in question.

rude shows more character and strength. It is particularly well adapted to the rather heavy and rich ornamentation, which never attempts to achieve the slender elegance of Northern Gothic.

The Hebrew alphabet ignores in general the capitals—we know only of a few instances of initial ornamentation as used in Christian illumination. Generally we have to understand by initial illumination in Hebrew MSS. the illumination of whole words and sayings. This custom of illuminating had been preserved later on in printed books and, as it would have been extravagant to make woodcuts of whole sayings and headings for every occasion, the Jews used to put together ornamented single initials so that the effect was very similar to that of hand-written initial words<sup>32</sup>. Characteristic specimens of the illumination of initial words may be found in "Die Haggadah von Sarajevo", plate IV. 2 (reproduced from the Haggadah Add. 27210) and in G. Margoliouth, *Catalogue of the Hebrew and Samaritan MSS. in the British Museum*, 1905, vol. II, plate VIII (reproduced from Add. 19,944.). The former is an example of medieval illumination, in the latter the framing of the initial word has already taken on the less intricate form announcing the transition to the Renaissance. Good examples of this later period are to be found in Mahzor No. 736 of the 15th century, belonging to the collection of Dr. M. Gaster, in London.

The initial illumination of our Haggadahs consists in putting the words executed in gold, silver or bright colors on a diapered background and in ornamented framings. The technique is gouache painting, generally very thick and viscid with profuse gilding. On the whole the color-

<sup>32</sup> Printed Haggadah, Prague, 1526, reproduced in the *Jewish Encyclopedia*, vol. X, p. 166.

ing of our Haggadahs is very bright. There is a great variety of colors, a brilliant cinnabar, a deep purple yellow, bright and dull greens, various shades of brown and grey, and black. The blues are not as predominant as they are in French illumination. The authors of "Die Haggadah von Sarajevo" attribute the coloring to Spanish influences, but it is interesting to note that in Spanish MSS. of the 13th and 14th century the coloring does not differ so very much from that of the French MSS., whereas in older paintings in Spain, for example in frescoes and in the illumination of the 10th century, we have that particular, shall we say, Oriental color scheme, with a profusion of reds and yellows and not much of dark blue. It may be that the Jewish illuminators in their conservatism preserved till later times a predilection for this particular color scheme. The characteristic coloring is a strong feature of Hebrew illumination in Spain, and helps as much as the calligraphy to ascertain the provenience of the MSS.

Not one of our Haggadahs is dated or signed. Most of them are very much worn and it is no matter of surprise that the colophons are missing. We possess fortunately a great number of contemporary MSS. which are dated by the Jewish copyists, who sometimes do not omit to mention that they also illuminated the MSS. There we have Joshua b. Abraham Ibn Gaon who states in his Bible codex (2323 Bodleian) that he copied and illuminated the MS. in 1306(?) at Soria (in old Castile), having learned his craft from his tutor Isaac, son of Gershom, for "the venerable and beloved" Moses Ibn Ḥabib. Joseph Ibn Ḥayyim represents himself as the creator of the unparalleled illumination of the Bible codex, executed in 1476 at La Corona (2322, Bodleian). Abraham b. Judah Ibn Ḥayyim

wrote in 1252 a "Treatise on the preparation of colors and gold for illuminating books".<sup>33</sup> This treatise has been preserved in the Codex de Rossi, 945, in Parma. There are to be found special hints as to Hebrew lettering. This man certainly was an artist himself, human activities in those days being not yet as differentiated as they are now. He was an artist and an author like the learned Ḥayyim b. Israel of Toledo, who, in 1377, copied the Bible Codex, preserved in the Derossiana in Parma, and beautifully illustrated it<sup>34</sup>. The technical terms of illumination passed very early into the Hebrew language. Thus Rashi (11th century) used the technical term "auripigmentum" for the medium with which the painters used to mix their colors to fix them to the vellum<sup>35</sup>.

<sup>33</sup> *Die Haggadah von Sarajevo*, p. 299

<sup>34</sup> *Ib.*, p. 260.

<sup>35</sup> Rashi spells **אוריפֿימֶנט**, in Romanesque "orpiment", comp. Moïse Schwab, "Une Haggadah illustrée," *Revue des Etudes Juives*, vol. 45, p. 114.



## THE DERIVATION OF "DAVEN-EN"

By A. MISHCON, London.

FEW words are so explicit in their meaning and yet so obscure as to their origin as the Yiddish word *Daven-en*, which is so widely used to denote the reading of the statutory—morning, afternoon, and evening—services.

Arabic and Aramaic, English and French were each of them suggested to have given birth to it. But the evidence so far adduced seems unconvincing enough to justify yet another attempt, which is here made, to decide its derivation.

J. Bernstein, in his *Jüdische Sprichwörter und Redensarten* (German section, p. 16), suggests an English origin. *Daven*, he thinks, may have been derived from *dawn*, the English for daybreak, the time from which the reading of the morning service may begin.

But his own remark that "the etymology of the word is unknown" is indeed the best proof that he regarded his theory as no more than a conjecture.

According to Dr. H. Hirschfeld (*Curiosities of Jewish Literature*, London, 1913, p. 17), the origin is traceable to the Arabic *Diwan*, a collection or compilation (of prayers). *Daven-en* would therefore mean to read out of a *Diwan*.

It must, however, be admitted that while the derivation from "dawn" suggested by Bernstein would narrow down the application of our word to the morning service only, Dr. Hirschfeld's interpretation would make it far too wide.

More loose still is the meaning assigned to it by the suggestion that it is derived from the French *Devouer*, implying devotion, or dedication.

A typically talmudistic theory ascribes to our word an Aramaic origin. It is said to be דאבנן "of our fathers," and to have originated from the rabbinic statement (Bera-kot 26b) תפלות אבות הקנום, The set services were instituted by the Patriarchs. Nor is this the only rabbinic derivation. Another suggested by Rabbi Avigdor Chaikin, Dayan in London, associates the word with קא דאוי למורח of Shabbat 35a (see also Jastrow, *s. v.*), and gives it the meaning of "gazing wistfully towards the east."

The suggestion which I venture to make is that the origin of our word is to be traced to Latin rather than any of the languages mentioned before. *Daven* is, in my opinion, a variant of the Latin *Divin* from which we get our term *Divine Service*. In support I would cite the following analogies:

1. Another Yiddish word which, according to Bernstein (*op. cit.*), is used by Jews in Germany in exactly the same sense as *Daven-en* is *Oren*; this, of course, is formed from the Latin *ora*—pray—with the addition of the German infinitive ending *en*.

2. The Yiddish word *Benschen*, which means to pronounce a liturgical benediction and is so closely akin to *daven-en*, is likewise derived from the Latin *benedice* (evidently through the Italian) with the addition of the same suffix *en*.

It therefore seems quite feasible that, like its two allies, our word, too, has a Latin origin. Thus,

Ora + en = Oren.

Benedice + en = Benschen.

Divin + en = Daven-en.

## THE ORIGIN OF THE ASHMEDAI LEGEND IN THE BABYLONIAN TALMUD

By ARMAND KAMINKA, Vienna.

A WELL-KNOWN passage in Gittin 68a tells of King Solomon that he ruled not only over men but also over demons. He was desirous of obtaining the mythical *shamir*, that by its aid the stones for the building of the Temple might be cut without the employment of iron. So he ordered Ashmedai, the king of the demons, to be brought before him. In connection with this story many anecdotes are told concerning the intellectual superiority and the dangerous power of the demon. The characteristics of Ashmedai as pictured in the Talmud moved S. J. Rapoport ('Erek Millin, s. v.) to declare him a kind of Mephistopheles or Solomon's evil spirit who took possession of the king in his old age, after he had shaken off discipline and had become steeped in sin. Israel Lévi (*REJ.*, VIII, 64-73) has established that certain details in the conversation between this remarkable demon and Benaiah son of Jehoiada recall a narrative about "the angel and the hermit" which occurs in various versions of the *Vilae Patrum* (before the eighth century) and in the Koran (XVIII, 64-81). I might add that several witty sayings and apophthegms concerning the blindness of men, which are ascribed to Ashmedai, are found, at least as far as the sense goes, in works of much greater antiquity. Thus Ashmedai is asked: "Why didst thou laugh when thou heardest that a man ordered shoes for himself for seven years?" And he answers: "This man has hardly seven days more to live, and yet he orders shoes for himself for seven

years". In the dialogue between Hermes and Charon, in Lucian, Charon says: "You asked me why I laughed? I had heard something which amused me vastly". Hermes: "What was it?" Charon: "A man who had been invited by one of his friends to dinner for the next day, replied: 'Certainly I shall come', and even as he spoke a tile from the roof fell on him and killed him".<sup>1</sup>

The name Ashmedai, which in the Talmud is given to the mysterious demon, has remained without explanation up to the present time. Kohut has attempted to derive it from the Zendavesta. It is true, a demon with the name of Aeshma does occur there; but James Darmesteter, who is quite trustworthy in this matter, has maintained in opposition to Kohut that compositions of this name with a syllable similar to the second part of our word never occur. Lacking any plausible explanation an attempt has been made (with reference to "Shamdon" in Midrash Genesis rabba, ch. 36) to derive the word from שמד, but this attempt cannot be taken seriously, since there is nothing in the nature of the demon endowed with supernatural power, as he appears to us in the Talmud, to justify such an etymology.

However, I believe I have found elsewhere the origin of the name and the nucleus of the entire legend.

Herodotus tells in the third book of his history how, in the absence of Cambyzes, Smerdis took possession of the throne of Persia. The people as a whole considered him as the lawful ruler on account of his likeness to the murdered brother of the king, the son of Cyrus. As Cambyzes died far away from his native land, Smerdis remained for seven months in possession of the throne, until a prominent

<sup>1</sup> Luciani Samosatensis opera, *Χάρων ἡ Επισκοποῦντες*. In the Talmud we find another incident besides the one mentioned above; Ashmedai passes a wedding and cries; he sees that the bridegroom will soon die.

Persian, Otanes, grew suspicious that the regent "who never quitted the citadel nor invited any of the noble Persians to his presence"<sup>2</sup> was not the son of Cyrus. Since his daughter Phaedyma was one of the wives of Cambyses, he sent to ask her "whether it was the true Smerdis who visited her as king".<sup>3</sup> To her answer that she had never seen Smerdis the son of Cyrus and therefore could not tell whether the ruler who had also become her husband was identical with him, he replied that she might examine, in his sleep, whether he had any ears. If he has no ears then he is not the royal prince but the magician Smerdis (whom Cyrus had in his life-time deprived of his ears for some atrocious crime). Now let us compare with this what is told in the talmudic legend about Ashmedai. Through his supernatural power he seized possession of Solomon's throne and sovereign authority. When (in the Synedrion) they hit on the idea to investigate whether the true ruler rules, they addressed a query to Benaiah son of Jehoiada, the foremost counsellor, whether the king allowed him to come to his presence. "No", was the answer. Thereupon they questioned the women of the palace whether the king visited them.<sup>4</sup> The women were then ordered to look upon his legs (the legs of a demon are supposed to be similar to the legs of a hen). In this wise the imposture was exposed, and Ashmedai was removed from the throne.

The striking similarity in the appearance and unmasking of the two usurpers makes it almost certain to me

<sup>2</sup> Herodotus, III, 68: ὅτι οὐκ ἐκάλεε ἐς ὄψιν ἑωυτοῦ οὐδέναν τῶν λογιμῶν Περσέων.

<sup>3</sup> πέμπων δὴ ὦν ὁ 'Οτάνης . . . παρ' ὅτεφ' ἀνθρώπων κοιμῶτο εἰ τε μετὰ Σμέρδιος τοῦ Κύρου εἰ τε μετὰ ἄλλου τευ.

אברו ליה לבניהו: כא בעי לך מלכא לנביח? אמר להו: לא. שלחו להו למכיווא: קאתי. מלכא לנבייכו? שלחו להו: אין. קאתי. שלחו להו: בדקו בבכרעיה. The motive of ears that had been cut off has given place to that of hen's legs.

that the Ashmedai of the talmudic legend was originally, and also in the version that came down to the amoraic period in Gittin 68, none else than (with the omission of *r*) the magician Smerdis, who, as may be seen from Herodotus, exercised the imagination of the people all over the Persian empire through the manner in which he took possession of the throne. In later times the mythical necromancer Smerdai became the king of the demons, and in view of *שְׂדֵה וְשָׂדִים* mentioned in Eccles. 2.8 as being subject to Solomon he was drawn in for the purpose of obtaining the *shamir*. It is not surprising that in Tobit (3.8), which assumedly had been composed in the second or first pre-Christian century, hence more than three hundred years after the events narrated in Herodotus, Ashmedai had become simply the evil spirit. And since here he brings misfortune on the young bride Sarah by repeatedly killing her husbands, he appears also in the Testament of Solomon as causing evil to brides and destroying conjugal life,<sup>5</sup> though this function is not at all in the spirit of the old Ashmedai legend. In other later accounts from the amoraic period, such as in Pesahim 110, he is also brought in connection with various other superstitious notions.

<sup>5</sup> *JQR.*, XI, 20; *Jewish Encyclopedia*, II, 217-220. I cannot agree with L. G., the author of the article, that the legend about Ashmedai's co-operation in the building of the Temple and the holy ring is based on the Testament of Solomon, since the Talmud ignores the other characteristics of the demon occurring in the above source.

## RECENT BOOKS ON PALESTINE AND ZIONISM

MR. SOKOLOW did not follow the beaten path.<sup>1</sup> Leo Pinsker and the Lovers of Zion for once failed to find their place in the opening chapters of Zionism. In a book of fifty-eight chapters they had to wait for the thirty-ninth and forty-first respectively before they could tread the boards. The opening pages in this book were devoted to the establishment of the closeness of the relation between England and the Jews, since England it was that had been destined to play the leading role in the realization—let us hope—of the noblest aspirations of Zionism. Mr. Sokolow went even further. Before pointing out the interest of England in the Jews, he introduced the reader to the influence of the Jewish Bible on England, and of the Jewish holy language on English literature. He then proceeded to recount the interesting episode of Menasseh ben Israel and his English contemporaries. This led him to a discussion of the Puritan friends of the Jews, with some of the Restoration schemes that were afloat in those days. Napoleon and his proclamations occupied his attention. Lord Byron, Palmerston and his associates, Sir Moses Montefiore, the Earl of Shaftesbury, the Earl of Beaconsfield were some of the outstanding names in the warp and woof of Mr. Sokolow's story of England and the Jews and Palestine. Interspersed through the chapters on these personalities, the author devoted a few to such suggestive topics as the Syrian problem, Britain's mission in the East, British interest and work in Palestine, and the Lebanon question. As might be expected, France came in for a share in the discussion as to her relation to Zionism. But only for a share. A chapter on Jewish colonization was followed by one on Zionism vs. Assimilation—a very vigorous discussion, a perusal of which leaves the reader wondering whether the exponents of political Zionism have not been shamefully maligned as to their lack of the religious sentiment.

Not until the author had disposed of these subjects did he approach the Russian pogroms of 1881-2 and the consequent active movement

<sup>1</sup> *History of Zionism 1600-1918*. By NAHUM SOKOLOW. With an introduction by the Rt. Hon. A J. BALFOUR. (Vol. II with an introduction by M. STEPHEN PICHON.) With portraits, etc. arranged by ISRAEL SOLOMONS. London, etc.: LONGMANS, GREEN AND Co., 1919. Vol. I: pp. lii+313; vol. II: pp. lxiii+450.

of the Lovers of Zion with its ramifications in France, England and America. It goes without saying that Baron De Hirsch and his attempts to solve the Jewish problem could not have been neglected by the author. This was closely followed by the discussion of the rise of modern Zionism and the first Zionist Congress.

Without forgetting to place in proper perspective the renaissance of Hebrew and the influence of the Hebrew writers on the reassertion of Jewish national consciousness, Mr. Sokolow then dwelt on the more recent manifestations of the movement, winding up with a detailed account of Zionism during the War, a period which the author's personality seemed largely to have dominated, if he has not given it its particular direction.

Long before the reader is prepared to form a judgment of the book as a history of Zionism, he is impressed by the easy flow of language, the beauty of diction and the lucidity of style. That this should come from the pen of one whose mother-tongue is not English, is in itself matter of wonderment, sufficient to cause us to expect much in the way of subject matter. For surely, a man who could submerge his individuality in an acquired language to the extent of obliterating all traces of his true vernacular, may well be able so thoroughly to identify himself with the various stages of the movement he depicts as to make the whole book a living experience.

Nor are we doomed to disappointment in this respect. Only it is just possible that this very quality of the author lies at the root of the outstanding stricture we have to make on the work as a history of Zionism.

In his introduction to the second volume Mr. Sokolow apologizes for the encyclopedic character of his history, and lays the blame at the door of the *facts* of the history. One feels tempted to question, however, whether the author ever meant the book to be a history of Zionism or a history of the ideas of Zionism. With material for such histories, indeed, both volumes are replete. Even the scientific spirit which should pervade such work is not lacking. Nay, at times this spirit asserts itself to the surprising degree of compelling the author to state the exact date of every personage mentioned in his work—from Arthur James Balfour back to Abraham. Another characteristic which differentiates history writing from other fact recording work, the author likewise exhibits with telling effect. The book abounds in innumerable passages of the most vivid description of things or ideas visualized, bringing home in lucid



style, with rarely an opportunity for the flagging of interest, the theme promulgated by the author.

Nevertheless the book is not a history. The execution of the work is not history-like in character. For a history, there is not enough objectivity in the point of view, not enough tolerance for the opinions of those in the Jewish fold who are on principle opposed to the idea and ideals of political Zionism. Those that differ with Mr. Sokolow are branded either as benightedly ignorant or as superficially enlightened, in craven fear of their cherished emancipation.

True, a historian is not a mere chronicler. We must allow a certain leeway not only to the author's personal equation, but also to his actual point of view. Nevertheless, although the extent of this leeway are undefined, the limits are there. And no author can drive the force of his individuality beyond these limits without losing for his work the name of history.

Mr. Sokolow's *History of Zionism* is patently a book with a purpose; a *Tendenzschrift*; an apologetic propaganda. By this characterization it is by no means meant to detract from the value of the work as such. As an appeal to the British public for the high ideal championed by the author, the book is one great powerful, persuasive, convincing argument, gaining momentum as it proceeds, with here and there bursts of eloquence that are irresistible. The reader makes the acquaintance of a formidable array of English dignitaries, divines, men of letters, and statesmen. He listens to their testimony. They speak in terms unmistakable. The Land and the People. The two must be linked together again. Prophecy foretells it. Religion and justice demand it. British interests dictate it. International jealousies necessitate it. The sentiment is contagious. The reader cannot help being impressed by the genuineness of the pleading as to the urgency of the situation. It is borne in upon him with the force of truth that eventually the one successful mode of righting the most ancient wrong, of offering to Eastern Europe a solution of a vexing problem, and to persecuted Israel salvation, is the one presented by the author—political Zionism.

The British reader finds in the book a special appeal applicable, if not directed, to himself. The position of England is proved ever so conclusively to be that of champion of right and justice, even for the weakest and most oppressed of peoples. It would be against human nature not to feel a just pride in this high tribute. It would hardly be

part of good breeding to discontinue playing the role after so open an avowal of deep-felt gratitude by a popular representative of that oppressed people.

With this purpose of the author in view, we can understand the significance of the insertion in the second volume of a chapter entitled "A Tribute". Without it, we must be at a loss to gauge the standard of valuation employed by the author, seeing full twenty pages devoted to an earnest, knighted English gentleman, but looking in vain for a less ambitious chapter on the father of modern Zionism in its conscious, articulate form, Dr. Theodore Herzl. To turn the tables on Mr. Sokolow and attribute this disproportionate treatment of his characters to the very spirit of the *Galuth* which he ascribes to the Jews of Hull, would be ungracious on our part. His fiery pride in his people's past, and his intense hope for a corresponding greatness in its future, leave no room in his make-up for even a subconscious sense of self-depreciation implied in the *Galuth*-spirit. What Mr. Sokolow did, we believe he did consciously, thoroughly, and well. We are all the more ready to overlook the shortcomings in his book when we realize that his plea for Zionism is intimately and inextricably bound up with a plea for the great mass of suffering Eastern Jewry. At the present day, no less than in the time of Josephus, Jewry stands in dire need of powerful apologists to do battle for its cause.

Judged from this point of view there is only one regret Mr. Sokolow's History leaves with us—albeit a serious regret—its prohibitive war-time price.

Dr. Finley's book is truly a description of the experiences of a pilgrim in the Holy Land.<sup>2</sup> We can see him fairly tremble with the ecstasy of the devotee as he strides at a swinging gait, hour after hour, in the scorching heat of the day, overtaking Arab wayfarers who marvel at the energy of the tall soldier, and in the stillness of the night, hearing in the wail of the jackals the fulfilment of a threatening prophecy of yore. A rock forms his pillow for a few hours of rest. A tree shelters him in Jericho. In Helbron he accepts the hospitality of an Arab sheikh. He needs must cover the length and breadth of the Holy Land on foot. He lives over again his early youth and the stories which he learned on his father's knees. Not a stretch of road but has its hero to keep the pil-

<sup>2</sup> *A Pilgrim in Palestine*. Being an account of journeys on foot by the first American pilgrim after General Allenby's recovery of the Holy Land. By JOHN FINLEY. Illustrated. New York: CHARLES SCRIBNER'S SONS, 1919. pp. xiv+252.

grim company. Not a village, or a hamlet, or a hillock, but yields its host of phantom spirits to beguile the wanderer, and to lead him away from the present desolation, back to a throbbing past. In the boom of the British guns he hears the thundering voice of Armageddon. Little wonder, that in his spirit of exaltation, his high tribute to General Allenby turns into a hymn. And if the Arabs, while joining the choir, hail the Deliverer in magnificently un-Semitic Arabic (Allah-Nebi being a highly Anglicized rendering of God-Prophet), the book does not suffer from that single discord.

In true consonance with the general tone of the book, is the author's attitude to the future of Palestine. Palestine is to become the ideal of civilization's dreams actualized; a practicable internationalism visualized. And the best medium through which this object lesson can be transmitted to the world, the author believes, is the Jew. "I have long believed, and often said, that the Jew, by reason of this very penetration and permeation of his genius and the universality of his experience, was fitted above others to help the nations reach that internationalism, of practice as well as of spirit, through nationality. Perhaps in this their ancient homeland they will have a greater opportunity to promote this desired and much-sought end" (p. 239).

The man who answers the query 'Quelle croix?' directed to him as regards his church affiliations, by the words 'La croix rouge', can hardly be expected to harbor any but the most broad-minded views on the question of the Holy Land and its problems.

To read *London Men in Palestine*<sup>3</sup> is to delve into Mr. Coldicott's memory as he goes over the ground, in charge of his Infantry company from Sheria in southern Palestine to Jerusalem. Like the Infantry captain, we are not initiated in the workings of the large plan of things. With our eyes riveted on the heels of the man in front of us, we only wait for the order to 'fall out.' We are fortunate enough to have a captain with unusually keen eyes for scenery, or we should have passed most of our time merely in suffering the hardships of a march with just a taste of a few nights' heavy rain. The small talk of the men which the captain let us overhear is typical enough. Nothing can be more truly descriptive of the soldier's nature than the extreme resentment at the Arabs' cheating finding expression by full repayment in similar coin. The author

<sup>3</sup> *London Men in Palestine and how they marched to Jerusalem*. By ROWLANDS COLDICOTT. Illustrated. London: EDWARD ARNOLD, 1919. pp. xii+232.

being given to introspection, leads us into many a reflection on the lot of men and things. Towards the end of the book we share with the author and his men the deep perplexity of a unit the first night on a new front, with orders and counter-orders to change positions the next night, with no guides stationed at the cross-roads. The little skirmish toward evening in the closing chapter, with the final dash across the Mount of Olives, is picturesque, graphic and quite exciting. The masterly diction sustained from beginning to end adds not inconsiderably to the genuine enjoyment of the reader. But when we are through and done we are conscious of a sense of incompleteness. We are left in mid-air. We miss our relation to the world about. We wonder as to the meaning of our experience. Exactly the feeling of Captain Coldicott himself, we have no doubt.

Most people will enjoy the reading of this book much more deeply, if they reserve it as a dessert to Antony Bluett's "*With our Army in Palestine*". One need not be a soldier to follow Mr. Bluett in all his campaigns in Egypt and in Palestine, intelligently. Nor need one be in one's teens to read his book at one sitting, though the closing chapter see the dawn of the morrow. Without a map by our side we trek the desert sands, with the next spring as our objective, wind our way in the wadis of the Holy Land following the guns of "A" Battery, taking our chance with them when an abrupt turn in the cliffside path drags horses, guns and men over the edge. Unarmed as we are, we find ourselves in the thick of the fight around Gaza. We even share with the troops their bitter disappointment at their repulse and forced withdrawal after all the exertions, and wounds, and mourned comrades. Every now and then we join the Australian light horse in their headlong onrush over plain and hill. We attach ourselves to the London Men when they take Jerusalem. Without much of a rest, we steal our way in the night across the Jordan in a daring, disastrous raid. Now we have our choice—stay around the Jordan encampment and flaunt our presence to the Turk, or cast in our lot with one of the many divisions in the vicinity of Jaffa, and let the orchards keep every trace of our movement under cover. We do not particularly enjoy the carnage wrought by our air forces on the fleeing enemy in the deep gorge of Wadi Farah. But we feel exhilarated none

\* *With Our Army in Palestine*. By ANTONY BLUETT. London: ANDREW MELROSE, LTD., 1919. pp. xii+288.

the less. We recall those terrible days in the first two years of our campaigning in Palestine when the Turkish aeroplanes bombarded our watering places so religiously. In retribution, vengeance and justice are so easily interchanged. By this time we feel we are nearing the beginning of the end, with old Blighty looming on the horizon. Like all our British comrades who have seen service in the Great War, we are fain to leave the Holy Land to pilgrims, or to give it away for the mere asking, for just one bunk on deck an old tub of a transport homeward-bound.

The larger questions involved in the taking of the Holy Land, not falling within the purview of the book, occupy the author's attention only rarely, and in a cursory manner. On the last pages of the book, he expresses his belief that "the French, who have large interests in Beyrout and Lebanon, will be the paramount influence there. — And from fifteen miles north of Acre down to the Suez Canal the country will probably be under the protection of the British."

He brings the book to a close with the following remarks: "Whether the Jews as a nation will ever settle in Palestine is a question the future alone will solve; certainly the wise policy of the British and French governments offers them every inducement, if they really wish to become a nation again in their own ancient land." Then, irrelevantly, (or is it irreverently?) "If the prophets are to be believed Jerusalem will one day be the capital of the world—but it will not be in our day."

The pamphlet bearing the title *Zionism*<sup>5</sup> is classified as number 162 of the Handbooks prepared under the direction of the historical section of the Foreign Office. We have therefore no means of knowing the name of its author. But whoever he be, he possesses a clear analytical mind, a thorough comprehension of the subject and a deep, genuine sympathy for it. In forty-seven pages, a brief of the underlying, deep-rooted causes of Zionism, of its history in various lands, of its growth and development, of its claims and possibilities, is presented in such a manner that the uninitiated reader may acquire a full grasp of the facts, and all but the hopelessly prejudiced may gain a finer appreciation of the Zionists' aspirations. The flaws in some phases of the movement in its present-day form are neither overlooked, nor even glossed over. Neither are the shortcomings of some of its leaders entirely ignored.

<sup>5</sup> *Zionism*. London: H. M. STATIONERY OFFICE, 1920. (Handbooks prepared under the direction of the Historical Section of the Foreign Office. No. 162.) pp. vi+48.

But altogether, the pamphlet is an excellent presentation of Zionism, clear rather than bold, persuasive without being insistent.

Mr. Mathews' book "*The Riddle of Nearer Asia*,"<sup>6</sup> is the work of a dual personality—a scholar and a zealot.

In the sketch of the historical background which occupies the first half of the book, the scholar led the pen. The result is very gratifying. From page to page we watch the vivid, colorful reconstruction of past empires taking place before our very eyes, through the bold, masterful strokes of the scholar-artist. It is with a feeling of intense regret that we pass to the second part of the book, where the zealot's hand gained the ascendancy. Blatant spiritual arrogance sounds its discordant note, marring the eloquence of the style.

When we read that "Goodness, purity, humility, joy, confidence, love, trust, truth, honour, honesty, loyalty, and fearlessness are qualities that belong to the Christian Kingdom" and that "Islam—leads up a blind alley beyond which progress is only possible by breaking down the very wall of 'suras' that make it Islam," and see Mr. Mathews quote the statement "Reformed Islam is Islam no longer," accepting it as a truism with authoritative finality, we cannot possibly imagine that the scholar sanctioned any of these utterances.

Surely, no scholar would have the temerity to claim the cardinal human virtues to be the monopoly of the Christian Kingdom or to deny to a great religion like Islam the capacity for inner growth and development.

With the same naively presumptuous sense of superiority Mr. Mathews solves the riddle of the Jewish question.

The growing tolerance of the nations of the world to the Jews living in their midst would prove the most disintegrating factor for Jewish separateness and Jewish individuality. Zionism is concededly the only way out. But shall Jewish growth be dwarfed by the cramping influence of Rabbinic legalism? No. He sees a vision. A vision of Israel come to its own. A vision of Israel liberated from the rabbinical leadership that had hounded Paul for the only 'crime that he had accepted the fact of the Incarnation of God in Christ.'

To be sure, Mr. Mathews, in his exalted mood, fails to note that the martyrdom of Israel compared to which Paul's martyrdom pales into

<sup>6</sup> *The Riddle of Nearer Asia*. By BASIL MATHEWS. With a preface by Viscount Bryce. Illustrated. New York: GEORGE H. DORAN CO., 1919. pp. 216.

infinitesimal insignificance, was imposed on him during many centuries for the sole crime that he *failed* to accept the miracle of the Incarnation as a fact.

"The Jewish people" Mr. Mathews prophesies, "like Paul, will reach their full place in the world when they stand where he stood and kneel where he knelt at the feet of the risen Christ." And in a more sombre strain, "They will miss their high destiny and lose their very existence as a people if they permanently deny Him."

It is indeed a pity that of the virtues claimed by Mr. Mathews as especially belonging to his Church, Confidence should play the leading role, with Humility scarcely appearing on the stage.

In the portion of the pamphlet devoted to a discussion of the geography of Palestine, Sir George Adam Smith<sup>7</sup> carries in his words that authority and convincingness which come from an accurate, detailed knowledge of the subject treated. When, however, he enters the field of the ethnologist and the historian, he sounds less convincing, if not less authoritative. To claim for the Palestinian Arab direct descent from the ancient Canaanite and Amorite for the purpose of solidifying his right to the soil, may well serve a definite purpose in view, but can hardly be established scientifically, not to mention the fact that the fellaheen themselves would emphatically repudiate that claim. Where is the Fellaah who would not answer quite affirmatively "Na'am," or "Aiwa," to the question whether he was "Arabi?"

And indeed, the worthy divine need not have gone to such lengths to prove there were great difficulties in the way of the realization of the Zionist aspirations. Had he charitably confined himself to the actual difficulties without invoking a host of imaginary ones such as relate to the Haram and other holy places, his essay would have gained in force what it would have lost in bulk.

In writing the little volume in the course of his desert campaigns, without the aid of reference-books, Colonel Bentwich<sup>8</sup> showed a memory for facts, names and dates in Jewish history worthy of a scholar. The clear analysis which he presents to the reader of the prevailing conditions in the existing Jewish colonies, stamps him unmistakably as the

<sup>7</sup> *Syria and the Holy Land.* By the Very Rev. Sir GEORGE ADAM SMITH, Kt., M.A., D.D., Litt.D., F.B.A. London, etc.: HODDER AND STOUGHTON, 1918. pp. 56.

<sup>8</sup> *Palestine of the Jews, past present, and future.* By NORMAN BENTWICH. With an appendix and other articles on the British advance. London: KEGAN, PAUL, TRENCH, TRUBNER AND Co., 1919. pp. xvi+288.

possessor of judicial insight and discriminatory powers. The stoutness of heart with which, while championing the cause of Palestine and the Jews, he looks forward toward a triumphant future, goes well with the traditions of the uniform he wore. Thus it is that the author symbolizes in his personality the three divisions of the book which, in his characteristic, humble manner, he presents to the public.

The book is worth reading. Not that there is anything particularly original in the thesis, or that the reader may expect a novel presentation of a philosophy of Jewish history. The book claims no such pretensions. But it possesses the merit of readableness of style, fairness of treatment, saneness of judgement, and brightness of spirit. In addition the book forms a handy review of the subject treated. Were a course on Palestine and its place in Jewish history given in our schools, the student would find Colonel Bentwich's little volume an invaluable aid the night before the examination.

If we were asked to characterize by a single epithet the impression Dr. Salaman's little volume of letters<sup>9</sup> made on us we should unhesitatingly choose the term refreshing. The spontaneity of the author's reactions to his daily shifting surroundings, the genuineness of the emotions of the man, tempered, if not guided, by the mental balance of the scientist, the simplicity of style, the easy grace of expression—all contribute their share towards making the reading so enjoyable. Our personal experiences may cause us to shake our head at some of the author's flights of enthusiasm. Or we may at times differ with some of his strictures on men and things. But that is all in the point of view. For one thing, we may be lacking his lively imagination, and the power to see transcendent beauty where only promise is on the surface. For another, our life may not have touched the life of the Palestinians at so many different points, or at such intimate proximity, as did the author's. His delights and his grievances both ring true enough, as far as he was affected by them.

Many readers will find in this book a valued attraction in the gallery of familiar personages, individuals and groups, which the author holds up to our view. The side-light he throws on them makes the familiar interestingly novel. The passing remarks add to the descriptions the

<sup>9</sup> *Palestine Reclaimed. Letters from a Jewish Officer in Palestine.* By RED-CLIFFE N. SALAMAN. With an introduction by the Hon. ORMSBY GORE. With map. London: GEORGE ROUTLEDGE AND SONS, LTD.; New York: E. P. DUTTON CO., 1920. pp. xii + 236.



palatable zest of a whiff of gossip. Nor will those who look for the more serious side of things be disappointed in Dr. Salaman's letters. His deep faith in the healthy rejuvenation of Israel on his ancient soil is reflected on many a page. We should not be overstating the matter if we asserted that now and anon Dr. Salaman's faith in his people rises to the heights of religion. The reader cannot but be delighted with the kinematic view of the movements of the Judean Battalion, as the Jewish Legionnaires operating in Palestine were called.

In the introductory chapter outlining the military geography of the ancient Jewish State, Mr. Sidebotham<sup>10</sup> postulates the theory that the true cause for the political failure of the ancient Hebrews is to be sought neither in the religion of Israel as some would have it, nor as Sir George Adam Smith would fain make us believe, in the geographical disunion of Palestine, but in the failure of the attempts of the ancient Hebrews to gain for their country its natural frontiers, the mountains on the north, the edge of the desert on the east, and the sea frontier on the west. The political vicissitudes of Palestine under the Greeks, under the Romans and under Islam are traced in the next three chapters, followed by one devoted to Napoleon's campaign in Syria.

The succeeding four chapters introduce the reader to modern European politics in the Near East, and England's role therein. A very interesting picture indeed of the fears, jealousies, intrigues and counter-plots of the several European Powers, with the inevitable clash of the conflicting wills to possess—now known as the Great War—as the crowning glory.

However, Mr. Sidebotham does not moralize or preach—except in a politico-military sense. With refreshing clarity of style and argument, he points out the preponderating importance of the Eastern strategy as the decisive factor in winning the war but for the unfortunate defection of Russia. The political moral for England is obvious. England must have the controlling power in Mesopotamia and Palestine; the latter as the gateway to Egypt, the former as the entrance and the bulwark to India.

In order to obviate the possibility of Palestine becoming a mere Protectorate of England, with the consequent heavy burden of a per-

<sup>10</sup> *England and Palestine. Essays towards the Restoration of the Jewish State* by HERBERT SIDEBOTHAM. London: CONSTABLE AND CO., LTD., 1918. pp. xii+257.

manent British garrison, the large scheme is evolved of setting up in the country a community capable of developing rapidly into a strong self-supporting body, that would shortly attain a stage of political civilization akin to that of England. Thus one could look forward to Palestine becoming a Dominion, a country that would not be long in garrisoning itself by its own patriotism.

Without the use of oratorical embellishments, Mr. Sidebotham succeeded by dint of analysis and bare statements of facts in presenting to the reader—from the non-Jewish Englishman's point of view—the most cogent politico-economic argument for the actualization of the Zionists' dreams that has ever been put in print.

The reviewer did not have to read through the full five hundred and ten pages of Dr Mattson's book<sup>11</sup> to gain an appreciation either of the author's misgivings regarding its deficiencies, or of his abounding faith in the reader's forbearance. Had he been the author of this volume, his faith, it may be feared, would never have persuaded him to override his misgivings.

The excuse that the author offers for adding one more book to the voluminous library of Travel in the Bible Lands is that "we find that one has observed something that another has entirely passed by." Granted. But we look long and diligently for that one redeeming, original observation. Our only recompense is the incredible naiveté of the author's remarks indicative of his mental reaction to the wondrous sights on this his life-dream journey.

His intention "to look over the largest city in the world"—meaning New York!—was frustrated by rain and gloomy weather setting in. Whereupon he satisfies his conscience and his readers with the illuminating observation that "our large cities have grown very fast."

While in Constantinople he "wanted to see the bazaars and study the folk-life in them." But, says our worthy investigator, "having gone a few blocks along a certain street, I could not go further, because my organ of smell rebelled and compelled me to return." His way of summing up his impressions of Turkey is characteristic. "Remember," he says, "that Turkey is half-civilized, and, perhaps, not even that. Only a few days' visit will convince anyone that there is a great difference between a Christian and a heathen city." It is true. "You can never

<sup>11</sup> *Through the Land of Promise. Reminiscences of a Journey in Bible Lands* By the Rev. P. A. MATTSO, Ph.D., D.D. Boston: THE STRATFORD CO., 1920 pp. viii + 510.

induce a Mohammedan to drink strong drinks. That is against his religion, and he is true to his principles." Whereas he saw "the so-called Christians were drinking whiskey, wine and beer very freely." Nevertheless, "there is only one thing that will save Turkey. It is the Gospel of the Living Savior, and nothing else."

In his endeavors to localize the holy places he has met with the success of the average writer on the subject. He is honest enough to let the uninitiated reader into the differences of opinion that exist with regard to the identification of some of the holy places. Others he accepts with equanimity; on the whole the average treatment of a hackneyed subject. He has read his Bible and has collated his history reading on what he saw and gave us the result in his own words. It is only in his excursions into the realm of the present that he becomes, in a sense, interesting. In every Bedouin beggar he sees a dangerous robber. But for his constant prayers one wonders how he could come through unscathed in all his encounters with that brood.

Even the poor Fellaheen came in for their share of inherent brigandage. "On the plains of Sharon there are only Bedouins and Fellaheen. In the dark night they had all kinds of chances to do us harm if they wished to do so. I had no idea how we were to get through, but I left all in the hands of the Lord and thought, He will protect me as He has done up to this time.—It would certainly be a daring feat to travel alone on this plain without proper protection."

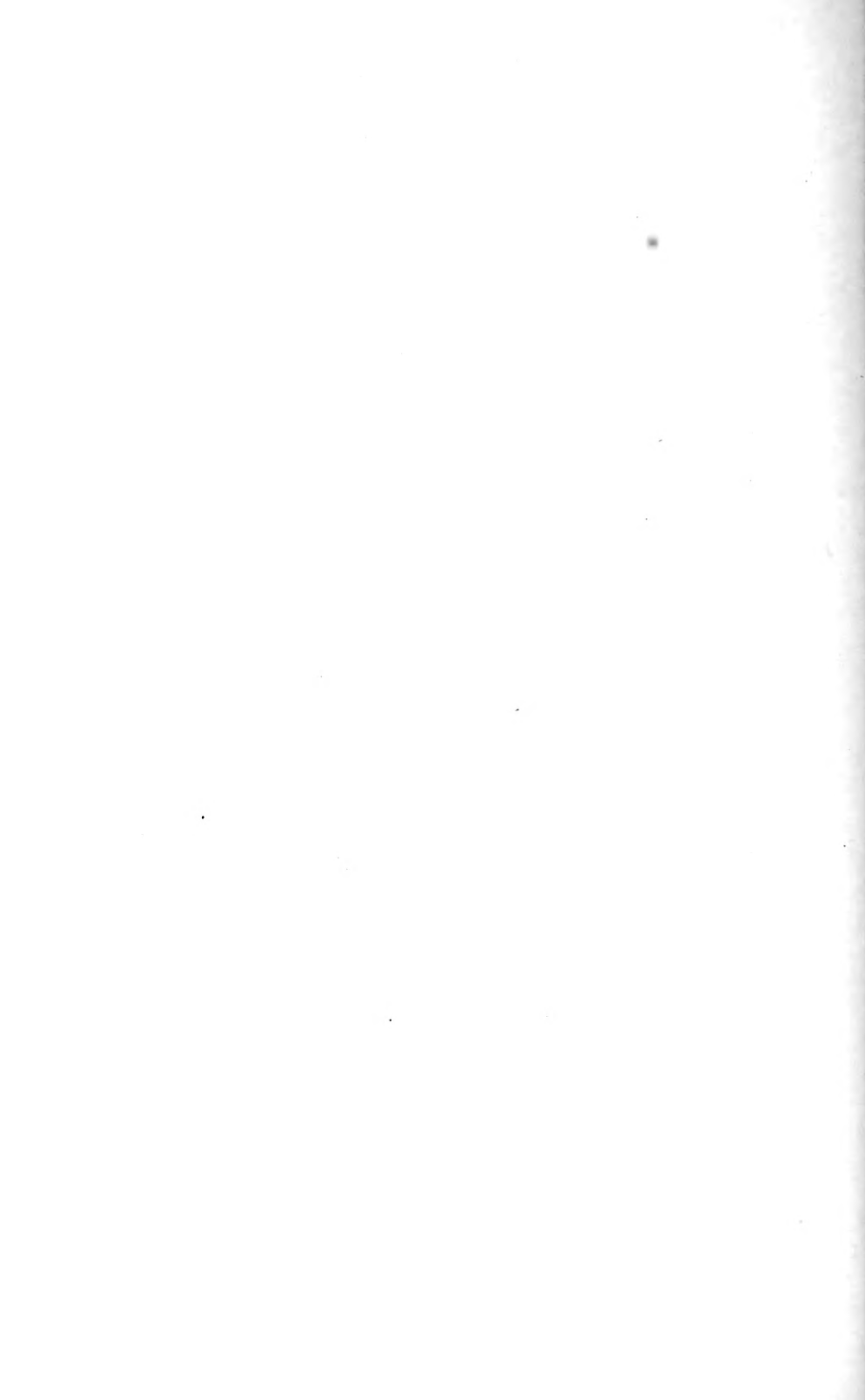
Equally amusing is his account of Zichron Jacob—which he knows only by the Arabic name of the railroad station a few miles distant.

"In this Colony there are two synagogues. The one is Reformed, the other Orthodox. Evening prayer is held in both of these synagogues. Together with the student from Beirut I went into the Orthodox to see how they conducted their religious exercises, and I found it very interesting. The prayer had already begun when we entered. The synagogue was full of people. Before an altar a Rabbi stood with his back turned towards the people, and sang the evening prayer in the Hebrew Bible."

If all his descriptions and estimates of the customs and institutions of the Holy Land of the present day are as accurate as this particular one, they are not a distinct contribution to our knowledge and understanding of the ancient Land of Promise.

HARRY S. DAVIDOWITZ.

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## MODERN THEOLOGY

"Is THERE a God?" There were times when to ask this question was a sign of heterodoxy; to-day the fact that the problem is of interest brands one as a member of the small, diminishing, tolerantly-ignored group of theologians. Like fossils of a past generation those who still ponder over the deepest realities of the universe are treasured and kept in schools of learning. Their beliefs are the subjects of jibes and jests, the main use of which seems to be to supply material for the wit of able writers. The masses of the people pay lip-service to the belief in God. As a result politicians find it useful to be regular church-goers, and state papers and addresses of government officials teem with religious references, but these are not more meaningful than the references to the Greek gods that fill the pages of Milton. It is by poetic license that the name of the Lord is used, but with little conviction. This is, let us face the facts frankly, an age of materialism, a mechanistic epoch in human life. If the name of God did possess the mystical powers, attributed to it by medieval enthusiasts, of making chariots fly, of drying oceans, of building bridges across streams, or digging tunnels under them, it would be diligently studied, every fact concerning it would be known. But as the existence of God is a matter of interest merely to man's moral and intellectual nature, the deepest reality that the human mind has conceived, the finest thought that has ever entered the human intellect, the idea that has been a source of ethical power for man from the days when first he began to understand the world, will be left for examination by such as can live on crusts of bread and endure the derision and mockery of a world.

It requires some courage, therefore, for men to insist in these days on repeating the ancient formula, "Hear, O Israel, the Lord is our God, the Lord is One." It is not difficult to say the words when one is not listening to the words one is pronouncing, but to affirm with conviction that God exists, is nothing less than to throw down a gauntlet before the eyes of some of the dominant philosophies of the day. It is to declare some of the most famous sages deluded; it is to enlist for service in a great war.

Those who go forth to wage this war of the Lord will find themselves seriously handicapped by lack of modern ammunition. Their guns and powder as well as the rest of their ordnance is of the sixteenth century type. They are ill-supplied with twentieth century inventions like the submarine, wireless, airplanes, and tanks. The attempt that is constantly being made to win the naval battles of this great war with Greek triremes will never succeed. The *Mayflower* carried a few sturdy pilgrims; it would ill have endured the mass movements across the Atlantic that are characteristic of our own day. The attempt to carry on a modern theological discussion with arguments from Anselm, who died in the twelfth century, or with "proofs" which were shot to pieces by Hume and Kant, in more modern times, is worse than futile. In the face of attacks of the power of Bertrand Russell's *Free Man's Worship* we must have better arms than those which proved vulnerable before less formidable foes.

For this reason all those who aspire to a clearer understanding of the deeper truths of the universe will greet with pleasure the appearance of Sorley's *Moral Values and the Idea of God*.<sup>1</sup> The author calmly reviews the various proofs for the existence of God that have thus far been advanced, the Ontological, the Cosmological, the Teleological, and the others, and fearlessly faces the objections which have been raised against them and which account for their failure to convince the world. In marshalling these proofs and refutations the author often adds very interesting and stimulating thoughts of his own. The chapter containing these discussions, called "The Theistic Arguments," is one of the finest in the book.

It is not easy to do justice to the author's argument in the confines of a short review. He bases his assertion of the existence of God on the existence of *Values* in the world, which he considers as real and integral a part of the universe as the *Relations* which hold between its various parts. The author of course wrestles with the problem of evil, and comes to the conclusion that the universe is purposive rather than statically perfect; he asserts the truth of freedom of the will. There are a few flaws in the argument, which do not, however, completely invalidate it. It still remains to be conclusively proved that *Relations*

<sup>1</sup> *Moral Values and the Idea of God*, the Gifford Lectures delivered at the University of Aberdeen, in 1914 and 1915, by W. R. SORLEY, Litt. D., LL.D., CAMBRIDGE UNIVERSITY PRESS; New York: G. P. PUTNAM'S SONS, 1919. pp. xix + 534.

are real in the sense in which material is real, and what is even more doubtful is that *Values* are an integral part of the universe and not a figment of the human imagination. An even more serious stricture against the book will be raised by those who deny the truth of the Oneness of the world, and who accept James' doctrine of the Pluralistic Universe.

It is the last criticism that makes the book of very little use in America where students generally have come under the influence of the modern "Anti-Absolutist" schools of thought. William James has dealt a blow to Hegelian Idealism from which, in this country, it has thus far failed to recover. It is true that Royce, the colleague of James, was an able champion of this very philosophy, but whether it be, as Bertrand Russell claims, because of our concentration on the practically useful, or for some other reason, the influence of William James on the rising generation of the country has been vastly greater than that of Royce. Perhaps Idealism is too profound for us, but we, Americans, generally find ourselves either enmeshed in the web of Pragmatism, or irresistibly drawn by Henry Bergson's *élan vital*, or followers of the rising neo-Realist group. There are very few to-day who will openly declare their adherence to the philosophy of Berkeley, either in the Germanized form given it by Hegel and his followers, or in the re-naturalized English form given it by Bradley.

Unlike Sorley, Professor Macintosh does not try to prove the existence of God, in his *Theology as an Empirical Science*.<sup>2</sup> The author states that as every science must begin with an assumption of the existence of the material with which it is concerned, just as chemistry assumes the existence of matter "and its accessibility to human experience; and biology assumes the same with reference to life, and psychology with reference to consciousness, and sociology with reference to society" even so "theology as an empirical science presupposes the existence of the Divine objects and its sufficient accessibility to experience for the possibility of knowledge of at least some of its qualities and relations" (p. 90). Although the book is full of Christological references, a Jewish reader will find many chapters very interesting and important. The chapter on *The Problem of Evil* deals with that

<sup>2</sup> *Theology as an Empirical Science*. By DOUGLASS CLYCE MACINTOSH, Ph.D., Dwight Professor of Theology in Yale University. New York: THE MACMILLAN CO., 1919, pp. xvi + 274.

difficult matter in a popular and novel way. The book is full of inspiring thoughts for the theologian, whose problem is the clarification of the meaning of the Divine rather than the proof of his existence.

Of a somewhat similar character is the Reverend W. Powell's *The Infinite Attributes of God*.<sup>3</sup> This little book, with a name that sounds so medieval, is yet quite modern in many of its parts. The introduction, with its elaboration and attempt to modernize Anselm's Ontological proof of the existence of God, can hardly be said to interest the reader, but he who breaks through the cold name and the uninviting introduction will find himself in a most interesting discussion of some of the serious problems facing the theologian. The book is very well written, and contains many references to the classical philosophers and theologians which the reader will appreciate.

Like the two books just discussed, Clement C. J. Webb's *God and Personality*<sup>4</sup> undertakes to describe the character of the Divine rather than to prove his existence. The author gives a lengthy discussion of the character of personality, and then devotes a chapter to the discussion of the meaning of personality as applied to God. He assumes the existence of an *inner consciousness* of God in the mind of his readers, and therefore finds no need of doing more than cope with some of the problems that present themselves before one who is philosophically convinced of the existence of the Absolute, and religiously convinced of the existence of God. Even to those who are not adherents of the Absolutist philosophies, the religious paradox of the transcendence and the immanence of God forms a real problem.

The reviewer, being a Jew, cannot but call attention to Mr. Webb's exaltation of the Christian religions at the expense of all others. His test of the greatness of a religion is: first, its ability "to encourage, and be encouraged itself by, moral and intellectual progress among its votaries"; second, the greater or less extent "to which it exhibits the specific nature of religion, and not that of Science or of Morality as distinguished from Religion." With the first criterion no one can quarrel. But it is far from certain that "if we compare the religions of the world

<sup>3</sup> *The Infinite Attributes of God*, By REV. W. POWELL, M.A., B.D. London: ARTHUR H. STOCKWELL, 29, pp. xxvii + 220.

<sup>4</sup> *God and Personality*, being the Gifford lectures delivered in the University of Aberdeen, in the years 1918 and 1919. First Course, By CLEMENT C. J. WEBB. London: GEORGE ALLEN & UNWIN LTD, New York: THE MACMILLAN CO. pp. 275



on some such principle as I have just indicated, we shall, I think, have no difficulty in acknowledging that there is none that has shown more capacity for maintaining or even developing itself in the atmosphere of what would generally be admitted to be the highest moral and intellectual culture to be found at present in the world" than Christianity (p. 247). It is true that just at present Christianity is outwardly professed by many of the highest intellectually developed men and women of the world, but how many of them are its true adherents? Moreover, why should we neglect to take account of the centuries when Europe was steeped in the gloom of the Dark Ages, while Mohammedanism was professed by those who "had the highest moral and intellectual culture". Statistics are lacking, but it may be ventured that in proportion to its small numbers Judaism contains as many cultured and intellectually developed votaries as any other religion.

The second test, in spite of the author's devotion of two pages to its clarification, remains obscure. The distinction between Religion as Religion or as Morality or Science must always remain arbitrary. This is indeed hardly the time for theologians to engage in polemics with one another, or to measure their various religions by weight or length. It is high time that all who feel that the idea of God is an important factor in human morality, that its disappearance from the world would be an unequalled catastrophe, that its presence in the minds and hearts of men is a sign of hope of better days—it is time for all of those who cherish these beliefs to come together and save the belief in God. It is a heavy task that is laid upon the believers; it is a great battle that they must win. It were fool-hardy to divide their efforts now. It is no longer a question between Christian or Mohammedan or Jew; it is the question of winning the intellectual world to an acceptance of faith in God, and of winning the masses who profess the faith to carry out the ethical principles that follow from it in their daily life. To do this is a task that is well worth the life of the noblest of us. To succeed in that should be the aim of everyone to whom has been granted the vision of the power and truth of the Righteous God.

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# THE JEWISH QUARTERLY REVIEW

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# THE STATUS OF LABOR IN ANCIENT ISRAEL

By MAYER SULZBERGER, Philadelphia.

## PREFACE

THE conclusions reached in the following four lectures will scarcely meet with ready acquiescence, since they depart from notions very generally entertained.

Their form too is not according to the conventional standard. There has been no attempt at dogmatism and no effort to achieve literary grace.

Their object was to attract the attention and arouse the efforts of the students of the "Dropsie College for Hebrew and Cognate Learning," to follow the author's procedure in investigating the subject without preconceived opinions, and to stimulate research in similar directions.

To accomplish this purpose, the author deemed it best to cite at length the data on which he worked and to show the process whereby he reached his conclusions.

Needless to say, the texts from which he worked, nowhere state, in so many words, the conclusions arrived at by him. Half a century's acquaintance with witnesses and their testimony has convinced him that no narrative, however sincere, ever tells the whole story. There appears to be a feature of the human mind which is averse to stating facts that are so familiar to the narrator, that he sub-consciously assumes that everybody knows them as well as himself, and that to repeat them would be absurd. Hence the true meaning of a witness' narrative is to be found not only in what he expressly says, but also in what

he does not say, but which may be fairly implied from the words used.

On this principle, the author has, on occasion, acted, and hence are derived some conclusions which may, at first sight, seem bizarre.

This method also involves the necessity, or at least the desirability, of setting out texts in full wherever they are made use of. It follows that some of them are stated more than once, and that ungainliness in the presentation results.

The desire to make the lectures educative is the only excuse for such defects.

The author hopes, however, that he has made at least a beginning toward a better comprehension of the labor question in ancient Israel.

## I

THE reader of the English versions of the Hebrew Scriptures must have been struck by the frequency with which he finds "the stranger, the fatherless and the widow" mentioned together. The coupling of the rank outsider, with those who apparently belong to the most intimate circle of the insiders, arouses attention.

An easy explanation of the phenomenon is that these classes are dependent upon the gracious kindness of the community and that, in this respect, they stand on common ground. This answer leaves us uninformed.

Why should every stranger, every fatherless child, every widow be thrown on public charity?

No intelligent government would tolerate the influx of large masses of aliens who could do nothing for the community but would be a mere burden.

Moreover, most fatherless children and most widows would have family connections who would provide for them

and many must have had shares in estates which precluded the necessity of public charity.

It is true that the common translation of these words, *ger*, *yatom* and *almanah* by *stranger*, *fatherless* and *widow* has much justification. Undoubtedly they all, on some occasions, have these meanings.

We must, however, keep in mind, that in the Hebrew as in all other languages, ancient and modern, there are many words which have more than one meaning and that these various meanings are sometimes conspicuously far apart and often seem unrelated to each other.

Take as an example, this very word *stranger* in our own language. Murray's Dictionary (volume 9, pp. 1079-1081) lists twenty-five meanings for it, covering as might be expected, a wide range of thought. That it stands for "one who belongs to another country", everybody knows, but that on certain occasions it means the British coin called "the guinea", few would guess, though, on reflection, many of us will realize that here at home, five-dollar gold pieces may fairly be called "strangers" by the most of us.

The moral is that times, circumstances, even caprices cause the attribution of new meanings to well-known words, and that such new meanings become at times general and at times merely narrow and technical.

If we then find that the general meanings of *ger*, *yatom* and *almanah* in the Biblical versions leave us puzzled in the endeavor to discover why this stranger should be thrust into the very heart of the national household, and why orphanage and widowhood should be constantly subject to attacks which must be fended off, it will be reasonable to seek for an explanation in any direction which may give us light.

Acting on this hint we may fairly inquire whether the

words in question have not other meanings than those accepted by the versions.

As the word *ger* starts the puzzle, we may begin with it. That it means *stranger* by the rules of etymology is true. Etymology is, however, not the sole or final determining cause of all the meanings of words as historically developed.

There are other Hebrew words that are also translated "stranger": *nokri* (*ben nekar*), *zar*, *toshab*, *sakir*. An analysis of the passages in which these words are used, shows that at a stage of Hebrew history, as early at least as the reign of David, and probably earlier, the Hebrews had divided these foreigners into two great classes, the one characterized by unmitigated foreignness, while the foreignness of the other class was modified by closer social relations. The first class—the absolute foreigners—were the *zar* and the *nokri*. The second class—relative foreigners—were the *ger*, the *toshab* and the *sakir*.

It may be noted that in the progress of time, some of these words underwent startling changes of meaning.

*Zar*, for instance, from being practically synonymous with *nokri*,<sup>1</sup> came in time to include a non-member of any particular body, in which sense it is found applied even to Hebrews standing outside of an intimate circle.<sup>2</sup>

*Nokri*, is applied in general to the unmitigated, the hostile alien. But in his case there is one important exception, to wit, the *nokri* slave, the *'ebed*.

While it is true that the word that interests us particularly is *ger*, it is necessary in order to understand it fully that we should comprehend what the *nokri* was and ascertain whether the *ger* was like him, or if he was not,

<sup>1</sup>Deut. 32.16; Isa. 1.7; 43.12; 61.5; Jer. 5.19; 51.2; Ezek. 11.9; 28.7, 10; 30.120 31.12; Hosea 7.9; 8.7, 12; Psalm 44.21; 81.10; Job 19.15.

<sup>2</sup>Exod. 29.33; 30.33; Lev. 22.10, 12, 13; Num. 1.51; 3.10, 38; 17.5; 18.4, 7; Deut. 25.5.

we should determine in what respect they differed.

Initially, it is well to dispose of the slaves.

Among the ancient nations in general slavery was an important institution. It represented the great labor force. While the masters were continually ready for war or actually waging it, the slaves did the bulk of the peaceful work necessary for the community.

With the Hebrews it was otherwise.

Their position in Egypt was not such as enabled them to acquire or to hold others in slavery. When, soon after the Exodus, the invasion of Canaan was begun, the tribes Reuben and Gad (later joined by the half-tribe of Manasseh) elected to remain in the land East of Jordan and the Dead Sea, because they judged it to be a good place for cattle-raising.<sup>3</sup> Being a pastoral people, by inheritance, the sight of the goodly land took away their ambition to become agriculturists in the Westland. Moses acquiesced in their decision, stipulating however that their soldiers should accompany the other tribes in the war against Canaan. They were to leave "their wives, their little ones and their cattle" in the land beyond Jordan to await the return of the menfolk from the war. If there had been any considerable number of slaves, there would, in that connection, have been some mention of them. At most there could have been but few and in this respect the other tribes were, without doubt, in like condition.

The slave was called *'ebed*. If he was bought, this term was supplemented by the words *miknat kesef* (bought for money). If he was born of slave parentage in the household, he was called *ben-bayit* (son of the house), or *yelid bayit* (born in the house), or *ben-amah* (son of the handmaid), these three terms being nearly or quite synonymous.

Something, by the way, should be said concerning

<sup>3</sup>Num. 32.1-42.

the mode in which these words have been rendered by the translators. They are all compound nouns, and should be so treated. The versions, however, analyze the expressions and translate the component elements separately. For instance, in Genesis 15.3 Abraham complains to God: "I am childless and my *ben-bayit* will be my heir." This, in effect, characterizes the relation as being a kind of qualified adoption. The versions render "one born in my house is to be mine heir," ignoring the fact that a man's own son is usually born in his house. The rendering should have been: "I am childless and my house-born slave will be my heir." The word is used in this sense in Ecclesiastes 2.7.

And so with *yelid-bayit*.

In Genesis 14.14 when Abram enters into a campaign to release Lot who had been captured, he armed his trained home-born slaves (*hanikaw yelide beto*), pursued and defeated the ravishers. The versions again seem to miss the point, though A. V. senses it.

So too in the 17th chapter of Genesis where the covenant of Abraham is established. The 12th and 13th verses are careful to enforce the obligation to perform the rite on slaves, whether *miknat kesef* or *yelid bayit*. The words are used in the same sense in Leviticus 22.11 and in Jeremiah 2.14.

In considering the position of the slave we must always keep in mind that the Hebrews had a rooted aversion to the system. To them it seemed an institution "accursed"<sup>4</sup> and this attitude made the lot of their slave essentially different from his condition among other nations and from forms of slavery persisting to our own time.

The conspicuous feature that contributed to his betterment was his admission to participation in the family worship.

<sup>4</sup>Gen. 9.25; Josh. 9.23.



Tradition refers this custom to the most ancient times. The covenant of Abraham was to be entered into not only by every male of the immediate family, but the master's obligation was to enter every male slave.<sup>5</sup>

The female slave (the *amah*) was even in more intimate relationship. She was often the daughter of Hebrew parents. Occasionally the master bought her either to make her his own wife<sup>6</sup> or the wife of his son.<sup>7</sup> The position of the Hebrew slave was not one of misery or degradation. Eliezer, the '*ebed* of Abraham, is called the ruler (*moshel*) of Abraham's possessions.<sup>8</sup> He it is who is entrusted by his master with the all-important mission of selecting and procuring a fitting wife for Isaac, and when he has found her, he presents her with rare jewels and raiment which he had brought.<sup>9</sup> He is treated with the consideration of an equal not only by Abraham but by Laban.

Eliezer was one of Abraham's home-born slaves, a *ben-bayit*.<sup>10</sup>

An example equally striking is found in 1 Chronicles 2.34, 35. Sheshan, a Judean magnate, gives his daughter in marriage to his Egyptian '*ebed* Yarha. Of course, as an '*ebed*, he had been naturalized, but he was an '*ebed* none the less.

The Book of Proverbs (17.2) lays it down that a wise slave ('*ebed maskil*) shall not only be preferred to a profligate son (*ben mebish*), but shall take the latter's share in the father's estate with the upright brothers. These are not mere instances of individual kindness. They are the expression of rooted national convictions.

Among the Hebrews the slave was not obliged to struggle for recognition as a human being. They held in abhorrence the views of other nations, like the Babylonian,

<sup>5</sup>Gen. 17.9, 11, 12, 13.

<sup>6</sup>Exod. 21.8.

<sup>7</sup>Exod. 21.9.

<sup>8</sup>Gen. 24.2.

<sup>9</sup>Gen. 24.53.

<sup>10</sup>Gen. 15.3.

as expressed or implied in the Hammurabi code, under which the slave was a mere chattel, whose owner could kill him without responsibility because he was merely destroying a piece of his property, the loss of which was his own and concerned no one else.

Far other views were reflected in the Hebrew laws.

Personal injuries to a slave were crimes punishable by the State. If a master maim his slave so that he or she loses a tooth or an eye, the slave goes free.<sup>11</sup>

On the subject of the slave's status in the Hebrew household, it may not be amiss to quote a few passages from the admirable *Hebräische Archäologie* of Professor Benzinger.<sup>12</sup> The translation is ours:

"The slaves were also part of the family. In passing judgment on Israelitish slavery, one may not start with the prepossessions derived from contemplating modern slavery among Christian peoples. . . . There is practically not enough difference between the position of the slaves and that of the other members of the household to warrant us in expending compassion upon them as if they were miserable and unfortunate. . . . In the cultural state of the times, Hebrew slavery was a blessing for both master and servant."

"We learn that the slaves were uniformly treated as members of the family, for whose well-being the master cared as for that of his children. They were not mere dumb slaves, but were often asked for their opinion and advice (1 Sam. 9.6ff; 25.14ff)."

"As member of the family, the slave was admitted to the family worship, wherefore he had to be circumcised. Thereby, too, he became competent to carry on and to inherit the family worship. By reason of this religious

<sup>11</sup>Exod. 21.26, 27.

<sup>12</sup>*Hebraische Archäologie* von Dr. J. Benzinger (Freiburg i. B. und Leipzig, 1894) pp. 159-162.

association, he received kindly and fatherly treatment just as do to-day the slaves in Islam. The 'brotherly feeling' among members of the religion has never been whittled down to a mere phrase, as in the Christian world, but is a very real power." Thus far Benzinger.

This favorable view of the condition of the Hebrew slave is, however, not universal. The dissenting opinion seems to be based on one striking text, which has in it a phrase singularly like the Babylonian principle. It is Exodus 21.20, 21 and reads: "If a man smite his bondman (*'ebed*) or his bondwoman (*amah*) with a rod and he die under his hand, he shall surely be punished (*nakom yinnakem*). Notwithstanding, if he continue a day or two, he shall not be punished (*lo yukkam*); FOR HE IS HIS MONEY."

From this last phrase, some have drawn the conclusion that a slave was looked upon as a mere piece of property and not as a fellow-being. Such a view totally ignores the legal provisions above cited and counts them as naught. The cruel words "he is his money" are accepted as overriding the whole course of the legislation.

These critics have overlooked the well-known fact that speech and writing exhibit an extraordinary servility to familiar words and phrases. Laws and customs of pre-historic ages were contemporaneously summarized in pithy sayings and though such laws and customs were from time to time changed and ultimately discarded, the popular phrase enjoyed and enjoys a stupid immortality.

"He is his money," when it was first uttered at a primitive period anterior to the Pentateuchal legislation, was, probably, a fairly correct statement of this particular social relation. In the lapse of time, the relation underwent a profound change, but the phrase lived on and even now survives in the text, as a pregnant reminder of archaic history.

This is, by no means, the only instance in the Pentateuch of adherence to dead words and sayings. The legal conception that a man violating the law should be adequately punished, was, in pre-historic times, when the law of retaliation represented the stage of development which had then been reached, formulated in the maxim: "Life for life, eye for eye, tooth for tooth, hand for hand, foot for foot." This became a current phrase and was transmitted from age to age. Needless to say, it is not a statement of Pentateuchal law, and yet, in one form or another, it occurs three times in the Pentateuch.<sup>13</sup> In each of the cases where it is used, punishment of offences is provided for, but not the punishment that would be required by the maxim.<sup>14</sup>

This maxim was, among the Hebrews of three thousand years ago, a mere phrase and yet it is to-day frequently quoted as a summary of Hebrew criminal law.

There is, of course, a real difficulty in understanding the text, a difficulty which no translation that I know of has overcome.

The words *nakom yinnakem* are generally translated "shall surely be punished." Such an expression would be without any definite or practical meaning. It specifies neither the kind nor the quantum of punishment and gives no clue as to who is to administer it. The probability is that the words constitute a technical law-term. Rashi understands it to mean "he shall die by the sword,"<sup>15</sup> relying on the law of Num. 35.18: "If he smote him with a hand-weapon of wood whereby a man may die, and he died, he is a murderer; the murderer shall surely be put to death." He opines, however, that when death is thus instantaneously produced by the master's chastisement of

<sup>13</sup>Exod. 21.23, 24, 25; Lev. 24.20; Deut. 19.21.

<sup>14</sup>See my *Ancient Hebrew Law of Homicide*, pp. 119-125.

<sup>15</sup>The expression *herch nokenet* (the avenging sword) is found in Lev. 26.25.

the slave, there must have been something more than the customary rod wherewith masters were entitled to punish slaves, something answering to the expression in the Numbers text, something which added a deadly quality to the rod. The fair inference from the text is that when death resulted immediately, the law presumed that this deadly quality was present and this presumption was not to be contradicted. If, however, the slave did not die on the same day, the presumption did not hold and therefore the master was not guilty of murder, he having exercised the ordinary right of corporeally chastising his slave, and the fact that by the slave's death the master lost a valuable piece of property, heightened the presumption of his innocence of murder when death did not immediately follow.

Under all the circumstances we need not hesitate to accept Professor Benzinger's view, which is strikingly fortified by Kent and Bailey in their excellent one-volume "History of the Hebrew Commonwealth." These are their words: "The chief claim of the Hebrew world to our regard lies in the fact that the ideals of democracy which to-day are winning acceptance among all civilized races first developed within this area. . . ." "It was in the soil of the barren steppe lands that encircle Palestine and among the nomadic tribes of the wilderness that the seeds of democracy first took root". . . . "Their ideas regarding the fundamental rights of man and his duties to his fellow were expressed in definite laws, and all later democratic legislation is largely an unfolding of what is there set forth in principle."<sup>16</sup>

"From Israel has come a moral code based on the Ten Commandments, which expresses, as well as mere laws can, the fundamental duties of man to God and to

<sup>16</sup>*History of the Hebrew Commonwealth* by Albert Edward Bailey and Charles Foster Kent, New York, 1920, pp. 13 and 14.

his fellow-man. It sprang from an instinct for freedom and brotherhood, perhaps the earliest and certainly the most persistent manifestation of that instinct among the ancient peoples of the world. It is this code that is the basis not only of the constitutions but also of the everyday life of all the great democracies of the present day."<sup>17</sup>

The most persuasive evidence of the Hebrews' aversion to slavery is that there is no mention anywhere that in the course of the conquest of Canaan, they reduced or endeavored to reduce any of the native peoples to slavery. It is true their lands were taken from them by the conquerors, but they were neither exterminated nor driven out nor enslaved.

To understand the situation it is necessary to get a correct view of the Hebrew invasion of Canaan. We have already mentioned that the movement began not by marching in a direct line for the coveted land, but to take as the proper starting-point, the land east of the Dead Sea and Jordan. The inhabitants of that section were overcome and the Hebrews had thus acquired their base of operations. In consequence of the action of the tribes of Reuben and Gad (later joined by the half-tribe of Manasseh) in waiving all claim to a share of Canaan, that coveted area was to be divided among a smaller number of tribes than had been originally intended. The two tribes Simeon and Levi were also excluded, and had no part, as tribes, in the war against Canaan or in the division of the conquered land.

The ancient poem called "the Blessing of Jacob" seems to point to the exclusion of these two tribes from the fellowship of the others, by reason of reprehensible conduct. Their doom is pronounced in these words: "I will divide them in Jacob and scatter them in Israel."<sup>18</sup>

While we have no authentic details of the fate of the

<sup>17</sup>*Ibid.*, p. 355.

<sup>18</sup>Gen. 49.7.

Simeon tribe, the great probability is that it was disintegrated and that its members attached themselves to any of the other tribes that they preferred or that were willing to receive them.

Levi too ceased to exist as a tribe, though it finally achieved a re-integration of a kind. It had not a tribal territory of its own, but its members obtained slices in sections of the other tribes. It regained too a tribal consciousness and reached a position of dignity as guardian of the law and of the sanctuary.

In the narratives of the war neither Simeon nor Levi is mentioned. Levi, however, obtains a favorable notice, in accordance with events that happened long after. The reason for its non-participation is stated to be that it was "to bear the ark of the covenant" and that "the Lord is his inheritance."<sup>19</sup>

There were thus left but nine tribes that were to share the land of Canaan among them. The military authorities evidently made a theoretical plan of the country, dividing it into nine districts, to the conquest of each one of which a particular tribe was assigned. Naturally the conquering tribe was to be settled on the territory it had acquired.

For the great enterprise which they were about to undertake, the Hebrews had certain qualifications and perhaps greater disadvantages. Their experience in agriculture was in effect characterized as inadequate. "The land whither thou goest in to possess it, is not as the land of Egypt, from whence ye came out, where thou didst sow thy seed, and didst water it with thy foot, as a garden of herbs; but the land whither ye go to possess it, is a land of hills and valleys, and drinketh water as the rain of heaven cometh down."<sup>20</sup>

<sup>19</sup>Deut. 10.8, 9.

<sup>20</sup>Deut. 11.10, 11.

And the contingency is foreshadowed "that there shall be no rain, and the ground shall not yield her fruit; and ye perish. . . ."<sup>21</sup> Moreover in the many arts and industries of Egypt they had not had a large share. They had, naturally viewed and admired the great works scattered through that country, but their part in adding to them, was, according to our accounts, humble. "They (the Egyptians) did set over them (the Hebrews) taskmasters to afflict them with their burdens. And they built for Pharaoh store-cities, Pithom and Raamses." "And they (the Egyptians) made their (the Hebrews') lives bitter with hard service, in mortar and in brick, and in all manner of service in the field. . . ."<sup>22</sup>

Nevertheless, the prospect was one of great hopefulness. Canaan loomed before them as a land containing "great and goodly cities which thou didst not build and houses full of all good things which thou didst not fill, and cisterns hewn out which thou didst not hew, vineyards and olive-trees which thou didst not plant." "A good land, a land of brooks of water, of fountains and depths springing forth in valleys and hills; a land of wheat and barley and vines and fig-trees and pomegranates; a land of olive-trees and honey; a land wherein thou shalt eat bread (*lehem*) without scarceness, thou shalt not lack anything in it; a land whose stones are iron and out of whose hills thou mayest dig brass."<sup>23</sup>

And they were to be the owners of this land wherein they would prosper not only in agriculture but in the arts and in commerce. Visions of imitating the glories of Memphis and Thebes in a capital city of their own also floated before their minds.<sup>24</sup>

Confident of easy victory they gave little thought to the natives whose lands they were to take. They would

<sup>21</sup>Deut. 11.17.<sup>22</sup>Exod. 1.11, 14.<sup>23</sup>Deut. 6.10, 11; 8.7, 8, 9.<sup>24</sup>Deut. 12.5-14, 21, 26; 14.23-25; 15.20; 16.2-16; 17.8-10; 18.6; 26.2; 31.11.



straightway destroy "the Hittite, the Amorite, the Canaanite, the Perizzite, the Hivite and the Jebusite."<sup>25</sup>

There were, however, voices counselling prudence and caution. A large settled population, they were warned, could not be disposed of suddenly: "The Lord thy God will cast out these nations before thee *by little and little*; thou mayest not consume them quickly, lest the beasts of the field increase upon thee."<sup>26</sup>

Moses did not live to cross Jordan and the leadership devolved on Joshua, whom the people, in eager anticipation, willingly followed. In this mood, caution was thrown to the winds. The cry was: "Clear the land of its inhabitants and we will go in and enjoy it." The course of events soon removed their illusions.

Joshua began by taking Jericho and destroying it with all its inhabitants, saving only Rahab and her kinsfolk.<sup>27</sup> The city of 'Ai he treated with the same severity.<sup>28</sup>

Thereupon the campaign took another turn. A small section of the natives began to be intimidated. The Gibeonites, despairing of resistance by force, resorted to cunning and deception. They sent a deputation to the leaders of Israel and by false representations induced the latter to agree to a treaty of peace.<sup>29</sup>

This treaty was concluded under the belief that the deputation represented a territory beyond that which Israel had planned to conquer, "a very far country," to use their own words.

A few days later the fraud was discovered and a great popular clamor was raised that the treaty should be disregarded. The council, however, rejected these demands to revoke a word solemnly given, saying: "We have sworn unto them by the Lord, the God of Israel; now, therefore, we may not touch them."<sup>30</sup>

<sup>25</sup>Exod. 23.23, 28; Deut. 20.17.

<sup>26</sup>Exod. 23.29; Deut. 7.22.

<sup>27</sup>Josh. 6.22-25.

<sup>28</sup>Josh. 8.26.

<sup>29</sup>Josh. 9.3-15.

<sup>30</sup>Josh. 9-19.

At this point their Egyptian experience suggested the remedy. They had been *gerim* in Egypt <sup>31</sup> and as such had been not only incapable of owning land, but had been subject to feudal servitude, an incident of which was, what in our modern states, is called the *corvée*,—the liability to be called for a certain time in each year to labor on public works. In Egypt it was doubtless called the *mas*, the superintendents of the laborers on public works being known as *sare missim*. The latter word was apparently a plural form for a singular *mas* not used in the narrative. The labors which these feudatories had to perform were called *siblot*,<sup>32</sup> the plural form of *sebel*, which word in another form is, in at least one other instance, used to describe *mas-labor*.<sup>33</sup>

The result of the treaty with Gibeon, as modified, was that the Gibeonites lost their lands to the Israelites and were moreover reduced to a condition not unlike the peasants of the Middle Ages, that is to become laborers on the land, subject however in addition to being called upon to work for the state during a certain portion of the year.

"This we will do to them (the Gibeonites) and let them live; . . . So they became hewers of wood and drawers of water to *kol ha-'edah*." (Meaning: public service.)<sup>34</sup> And Joshua's speech to the deputation is ". . . There shall never fail to be of you bondmen, both hewers of wood and drawers of water *for the house of my God*."<sup>35</sup> And they acquiesced.<sup>36</sup>

This treaty with Gibeon became the key-note of the new policy. The sanguinary project of exterminating the natives and the more moderate purpose of driving them out were both abandoned. It was now resolved that the natives should be reduced to the condition which the

<sup>31</sup>Exod. 22.20; 23.9; Lev. 19.34; Deut. 10.19; 23.8.

<sup>32</sup>Exod. 1.11.

<sup>33</sup>Gen. 49.15.

<sup>34</sup>Josh. 9.20, 21.

<sup>35</sup>Josh. 9.23.

<sup>36</sup>Josh. 9.25-27.

Gibeonites had submitted to. They were to become *gerim* (landless) and subject to the *mas*.

The tribes were now ready to go on with the tasks severally assigned to them. Their successes were at first not complete nor even very important. Not until the Northern tribes had formed a union and acted together did they succeed in subduing the natives and relegating them to the position of *gerim* subject to the *mas*. The account is set forth in the Book of Judges.<sup>37</sup> While eight of the tribes, namely Manasseh, Ephraim, Zebulun, Asher, Naphtali, Dan, Judah and Benjamin had at least won some triumphs before the union of the tribes, Issachar had totally failed. The record in Judges is silent on this humiliating event. Our information, on the subject, is obtained from the ancient poem called the Blessing of Jacob, which contains this remarkable passage:

"Issachar is a large-boned ass,  
Couching down between the sheepfolds.  
For he saw a rest-place that it was good,  
And the land that it was pleasant,  
And he bowed his shoulder to bear (*lisbol*),  
And became for *mas*-'*obed*.'"<sup>38</sup>

We have here the story of the only complete failure among the invading forces. Instead of subjecting the natives to the *mas* '*obed*' as did four of the tribes, or making treaties of amity with them, as did four other tribes, Issachar was itself overcome and made subject to the *mas*-'*obed*' by the natives of the district. The prosperity and comfort enjoyed by the tribe in its new home is described in a tone of lofty contempt for a spirit so mean as to be satisfied with subjection however profitable.

It is only just to the memory of the Issachar tribe, to remember that in the decisive battle with Sisera it showed

<sup>37</sup>Jud. 1.19-25.

<sup>38</sup>Gen. 49.15.

that it had redeemed itself. In the great ancient poem of Deborah<sup>39</sup> its achievements are lauded: "And the princes of Issachar, were with Deborah; As was Issachar, so was Barak; Into the valley they rushed forth at his feet."<sup>40</sup> The accepted opinion seems to be that Barak, the general of the Hebrew army, and the victor in that glorious combat, was of Issachar, and it has even been suggested by respectable authority that Deborah herself was of that tribe. The fact that Tola of Issachar was one of the *shofetim* of Israel<sup>41</sup> attests the regard in which the tribe came to be held.

The poem further shows that the isolation of these northern tribes had gradually yielded to a desire for a more or less intimate unity, and that this confederacy was known as Israel or Beth Joseph.

It was doubtless after this had been accomplished, that the conquest of the north country was completed and the *mas-'obed* was imposed on all the indigenous inhabitants who remained in the land. That some of them emigrated to the Judaic or southern territory would appear from a casual statement in Chronicles, in the account of Hezekiah's Passover.<sup>42</sup> Enumerating the classes of participants in that high festival, it mentions "the *gerim* that came out of the land of Israel and dwelt in Judah." The attraction, probably, was that in Judah, they were not subject to the *mas-'obed*.<sup>43</sup>

Whether some emigrated to other countries our records do not inform us. No conjecture on this point should omit to consider the scanty means of transportation at the time and the improbability of a great mass of people find-

<sup>39</sup>Jud. 5.1-31.

<sup>40</sup>Jud. 5.15.

<sup>41</sup>Jud. 10.1.

<sup>42</sup>Chron. 30.25.

<sup>43</sup>The natives of the South country made a more successful stand against the invaders than did those of the North. "Judah could not drive out the inhabitants of the valley because they had chariots of iron," (Jud. 1.19), a significant forerunner of the effect of using tanks in the great world-war. "And the children of Benjamin did not drive out the Jebusites that inhabited Jerusalem; but the Jebusites dwelt with the children of Benjamin in Jerusalem, unto this day." (Jud. 1.21.)

ing employment or sustenance in strange places within their reach.

The situation, however, presented another aspect far more important than mere passion or sentiment.

The Hebrews had suddenly come into control of a country whose land they divided among themselves and this land had to be cultivated. A relatively small number were capable farmers. Moreover the natives were practising all sorts of industries which the Hebrews had not mastered.

The statesmanlike genius evident in the whole movement did not, at this crisis, fail.

The solution proposed, adopted and carried into effect was that the native population, as a whole, should remain where they were. True, they lost their land-holdings to the Hebrews. They did not however lose their skill or industry, and these qualities were absolutely needed to maintain and develop the country. The precise terms of the understanding are of course inaccessible to us, but we have enough information to obtain a general idea of them.

That the relations of Hebrews with the *ger* were quite friendly, perhaps too friendly, appears sufficiently from the traditions.

We are told that "the children of Israel dwelt among the Canaanites, the Hittites, and the Amorites, and the Perizzites, and the Hivites and the Jebusites; and they took their daughters to be their wives, and gave their own daughters to their sons, and served their gods."<sup>44</sup>

Ezekiel, perhaps in a mood of irritation, quotes the tradition thus: "Thine origin and thy nativity is of the land of the Canaanite; the Amorite was thy father, and thy mother was a Hittite."<sup>45</sup>

<sup>44</sup>Jud. 3.5.

<sup>45</sup>Ezek. 16.3.

And Ezra speaks as if the events of his time bore out the tradition.<sup>46</sup>

Let us, however, first ascertain by what name this non-Hebrew population was called. As they had become an element of the whole Hebrew social structure, the multifarious names of the relatively small groups into which they were divided would soon be abandoned. A new name would be applied to them to designate their whole body as against the body of Hebrews.

That name was *ger*, used sometimes in the singular and sometimes as a collective noun, though its plural form *gerim* was also used. A little reflection will supply the reason. Those natives were strangers in blood to the Israelites and there had been no acquaintance or intercourse with them. In those early ages, when consciousness of blood-relationship produced tribal bodies, all outside the ranks were strangers indeed. When the body of Israelites was brought in intimate contact with the body of natives, both of them felt that they were strangers to each other. The fact that the natives would soon become an integral body in close relationship to the activities of the new Hebrew nation could not at first mitigate the strangeness in blood, in experience, in activities and in religious practices. Moreover their national experience supplied a precedent. Though they had been settled in Egypt for centuries in relations somewhat similar to those which they now imposed on the Canaanites, they always viewed themselves as having been *gerim* in Egypt.<sup>47</sup>

It behooves us now to return to the other classes called *strangers* by the versions. First among these was the *nokri*. Him, the Hebrews looked upon as the hostile, the unmitigated alien.

Here are instances:

<sup>46</sup>Ezra 9,1, 2.

<sup>47</sup>Exod. 22,20; 23,9; Lev. 19,31; Deut. 10,19.

1st. There were two kinds of flesh abhorred by the Hebrews, that which dieth of itself (*nebelah*) and that which is torn of beasts (*terefah*).

The *nebelah*, odious as it was, might be sold to the *nokri*.<sup>48</sup> The *terefah* was still more objectionable than the *nebelah*. The antique law was that it should be cast to the dogs.<sup>49</sup> There is ground for the assumption that the rigidity of this rule was, in the course of time, relaxed, since an express ordinance forbade the eating of the *terefah* by Hebrew or by *ger*.<sup>50</sup> It is not hazardous to conjecture that it might be given or sold to the *nokri*, no allusion to him being made in this prohibitive ordinance.

2d. No *ben-nekar* could eat of the Passover.<sup>51</sup>

3d. An Israelite was not allowed to offer for sacrifice an animal procured from a *ben-nekar*.<sup>52</sup>

4th. The taking of interest or increase for money or goods loaned to another is a highly objectionable act, but it is nevertheless allowed in the case of a *nokri*.<sup>53</sup>

5th. No *ben-nekar* should be allowed in the Temple.<sup>54</sup>

6th. Perhaps the most emphatic example is presented by the spontaneous exclamation of the Levite while on his journey. When night fell and it was necessary to find shelter, his companion pointed out a city that lay before them as a convenient stopping-place for the night. The Levite, horrified, replied: "We will not turn aside into a *nokri* city!"<sup>55</sup>

7th. Isaiah reproaches Judah and Jerusalem that "they please themselves in the brood of *nokri*."<sup>56</sup>

8th. Zephaniah denounces those who wear clothes in *nokri* style.<sup>57</sup>

9th. Obadiah looks upon *nokrim* as mere pillagers. <sup>58</sup>

10th. Lamentations does the like.<sup>59</sup>

<sup>48</sup>Deut. 14.21.

<sup>49</sup>Exod. 22.30.

<sup>50</sup>Lev. 17.15.

<sup>51</sup>Exod. 12.43.

<sup>52</sup>Lev. 22.25.

<sup>53</sup>Deut. 23.21.

<sup>54</sup>Ezek. 44.7, 9.

<sup>55</sup>Jud. 19.12.

<sup>56</sup>Isa. 2.6.

<sup>57</sup>Zeph. 1.8.

<sup>58</sup>Obad. 1.11.

<sup>59</sup>Lam. 5.2.

11th. The 114th Psalm says of the *bene nekar* that their "mouth speaketh falsehood, and their right hand is a right hand of lying."<sup>60</sup>

The Book of Proverbs looks upon them as degraded and degenerate. The depth of infamy is reached by the *nokriyah*.<sup>61</sup>

The worst fate that can befall a Hebrew is that the *nokri* or *zar* shall enjoy his substance, that "*zarim* be filled with thy strength and thy labors be in the *nokri's* house."<sup>62</sup>

And a Hebrew has sunk low indeed when he has become *muzar* unto his brethren and *nokri* unto his mother's children;<sup>63</sup> when the *garim* of his house and his *amahot* look upon him as a *zar* and a *nokri*.<sup>64</sup>

While common opinion was hostile to the *nokri*, and the law, in a measure, reflected it, since the education of a whole people in new ideas is a slow process, there were loftier spirits whose souls were unhampered by prejudice. These had that wider vision which looks without fear into a distant future nobler and freer than the present. They foresaw a time when the hated *nokri* should become a brother. In the prayer of Solomon at the dedication of the Temple he speaks of "the *nokri* that is not of thy people Israel, when he shall come out of a far country for Thy name's sake . . . when he shall come and pray toward this house" and his supplication is: "Hear Thou in heaven, Thy dwelling-place and do according to all that the *nokri* called to Thee for; that all the peoples of the earth may know Thy name to reverence Thee as doth Thy people Israel. . . ."<sup>65</sup>

In the magnificent vision of Isaiah, he sees *kol ha-goyim* (all the foreign nations) "at the end of days" flock

<sup>60</sup>Psalm 114.8, 11.

<sup>61</sup>Prov. 2.16; 6.24; 7.5; 20.16; 27.13.

<sup>62</sup>Prov. 5.10; Eccles. 6.2.

<sup>63</sup>Psalm 69.9.

<sup>64</sup>Job 19.15.

<sup>65</sup>1 Kings 8.41; 2 Chron. 6.32.



to the Temple and pledge allegiance to the God of Jacob and "they shall beat their swords into plowshares, and their spears into pruning-hooks; nation shall not lift up sword against nation, neither shall they learn war any more."<sup>66</sup> And Micah foresees the same happy result in *the end of days*,<sup>67</sup> meaning, according to Margolis,<sup>68</sup> the Messianic era.

When we reflect that these messages were delivered twenty-five centuries ago and view conditions as they are to-day, the long postponement of the happy time is fully vindicated.

The broad views above cited concerning the *nokri* may be supplemented by an incident of the most interesting character.

It will be remembered that Israel determined not to make its attack on Canaan from the south, but to establish its base of operations east of Jordan. The direct route to the desired point lay through the territory of Edom.

At this point Moses exhibited a regard for international law based on ethical principles, which is amazing for that early time. The narrative is related in the twentieth Chapter of Numbers:

"Moses sent messengers from Kadesh unto the King of Edom. Thus saith thy brother Israel. . . . We are in Kadesh, a city in the uttermost of thy border. Let us pass, I pray thee, through thy land; we will not pass through field or through vineyard, neither will we drink of the water of the wells; we will go along the king's highway, we will not turn aside to the right hand nor to the left, until we have passed thy border."

And Edom said unto him:

"Thou shalt not pass through me, lest I come out

<sup>66</sup>Isa. 2.2-4.

<sup>67</sup>Micah 4.1-4.

<sup>68</sup>Margolis' Commentary on Micah, pp. 42, 43 (J.P.S., Philadelphia, 1908).

with the sword against thee." And the children of Israel said unto him:

"We will go up by the highway, and if we drink of thy water, I and my cattle, then will I give the price thereof; let me only pass through on my feet; there is no hurt."

"And he said, Thou shalt not pass through. And Edom came out against him with much people and with a strong hand. Thus Edom refused to give Israel passage through his border; wherefore Israel turned away from him."<sup>69</sup>

The object to be attained was practicable by a march through the territory of the Amorites whose King was Sihon.

Moses then sent to Sihon, a message substantially similar to that which had been sent to Edom, omitting of course to call Israel brother to the Amorite because they viewed each other as strangers whereas the Edomite was looked upon as descended from the brother of Israel's ancestor Jacob.

Sihon, however, not only refused to grant the request but gathered his army and attacked Israel at Jahaz.

"And Israel smote him with the edge of the sword and possessed his land from the Arnon unto the Yabbok even unto the children of Ammon; for the border of the children of Ammon was strong. And Israel took all these cities and Israel dwelt in all the cities of the Amorites, in Heshbon, and in all the towns thereof. For Heshbon was the city of Sihon the King of the Amorites, who had fought against the former King of Moab and taken all his land out of his hand even unto the Arnon."

"Thus Israel dwelt in the land of the Amorites."<sup>70</sup>

The aloofness of the great mass of Hebrews from the *nokri*, is in striking contrast to their position towards the *ger*.

<sup>69</sup>Num. 20.14-24.

<sup>70</sup>Num 21.22-31.

We have already advanced the hypothesis that the bulk of the native population remained in the land and became feudatories of the conquering Hebrews, subject likewise to the *mas* or *corvée*, which is the liability to be called on to labor on public works for a limited period.

That the *ger* was an important factor in the labor-force of the Hebrew commonwealth is amply attested by the records.

We have, for instance, this narrative:

Moses is represented, as having, near the close of his career, addressed all Israel, reciting at the same time the several classes composing the nation,<sup>71</sup> to wit: "All the men of Israel, your little ones, your wives, and THY GER that is in the midst of thy camp, *from the hewer of thy wood unto the drawer of thy water.*"

If the *ger* here referred to had been merely alien outsiders visiting the country or temporarily sojourning in it, there would have been little reason to include them as an important element of the people on this solemn occasion. There would have been even less ground for using the possessive pronoun and calling them THY *ger*. This possessive expression implies not only close relationship, but also superiority, a power of command, which would be inappropriate to express the condition of friendly visitors, but would aptly characterize the relation between employers and employees. We are not however compelled to rely on inference alone. The phrase added defines their condition, they are the "hewers of wood and drawers of water," a popular expression describing any kind of common labor.

There are other instances of a similar use of the word. The Sabbath commandments in Exodus and Deuteronomy<sup>72</sup> direct the master to prohibit work on the Sabbath not only by his family and his slaves but "by THY *ger* that

<sup>71</sup>Deut. 29.1, 9, 10.

<sup>72</sup>Exod. 20.10; 23.12; Deut. 5.14.

is within thy gates." Such a command is, of necessity, addressed to an employer who might otherwise exact Sabbath service from an alien employee who was not a worshipper of the God of Israel.

A similar prohibition is contained in the ordinance commanding the observance of the tenth day of the seventh month (Atonement Day).<sup>73</sup>

More striking still is the language attributed to Moses in charging the judges: "Hear the causes between your brethren and judge righteously between a man and his brother and (between a man) and HIS *ger*."<sup>74</sup> It is difficult to imagine causes of contention with mere strangers, whereas differences between employer and employee have always arisen. And here again it is necessary to note the possessive pronoun (HIS *ger*).

The unsophisticated historical evidence seems conclusive of the matter. Solomon, intent on increasing the splendor of his reign, entertained magnificent building schemes. He built not only the Temple but constructed the fortifications of Jerusalem, the royal palace and other notable structures. He also built Gezer, Beth-Horon the nether, Baalath, Tadmor in the wilderness and other cities.<sup>75</sup> In carrying on these projects he was doing what his father, King David, had dreamed of and projected.

Needless to say, the work required a large force of laborers, and the only practicable mode of obtaining them was by the enforcement of the *mas*, the *corvée* to which the conquered Palestinian natives had been subjected. David had seen this clearly and had begun by systematizing the institution putting at its head a man of extraordinary ability, Adoniram, whose office is described as being "over the *mas*,"<sup>76</sup> what in modern parlance we would call a "Minister of Labor" in the King's Cabinet, which position

<sup>73</sup>Lev. 16.29.

<sup>74</sup>Deut. 1.16.

<sup>75</sup>1 Kings 9.15-19; 2 Chron. 8.1-6.

<sup>76</sup>2 Sam. 20.24.

he continued to hold under Solomon<sup>77</sup> and under the latter's successor Rehoboam,<sup>78</sup> a period of remarkable length, seeing that the duration of Solomon's reign was about forty years<sup>79</sup> to which must be added the time he held office under David and under Rehoboam.

David's first step was to take a census of all the *gerim* men in the land of Israel.<sup>80</sup> There were, however, circumstances which hindered him from realizing his projects. Under Solomon everything was ready. Adoniram took a new census of these *gerim* men, and their number was found to be 153,600, from which figure it is fair to infer that the whole *ger* population of Israel (women and children included) was perhaps three quarters of a million.

We are not left in doubt as to who these *gerim* were. The account is explicit: "All the people that were left of the Amorites, the Hittites, the Perizzites, the Hivites and the Jebusites, who were not of the children of Israel; even their children that were left after them in the land. . ."<sup>81</sup>

The census being completed the next step was to levy the *mas*. The architects needed 10,000 men to work steadily, and these were to be taken from among the *gerim*. As has already been said, these *gerim* were employed by the Israelites, the men of the northern section, in agricultural and other labors, though their largest and most important industry was agriculture.

The mode in which the *mas* was levied, was somewhat complicated and that for good and sufficient reasons. The Israelite farmers needed the *gerim* and deprivation of their service entailed loss and hardship. To reduce these disadvantages as much as possible, Adoniram devised this scheme:

The 150,000 *gerim* men were divided into five sections

<sup>77</sup>1 Kings 4.6; 5.28.

<sup>78</sup>1 Kings 12.18; 2 Chron. 10.18.

<sup>79</sup>Solomon's reign is given as forty years in 1 Kings 12.42.

<sup>80</sup>2 Chron. 2.16

<sup>81</sup>1 Kings 9.20, 21; 2 Chron. 8.7, 8.

of 30,000 each. The first year one of these sections was drafted; another section was drafted for the second year, and so on, one section for the third, another for the fourth and another for the fifth year. It followed that the members of any one of these sections were not subject to be called for a second term of service until the fifth year after the expiration of their first term.

These sections of 30,000 men were thrice the number required by the architects. Each section was therefore subdivided into three sub-sections of 10,000 each, the latter being the number required. It followed that each of these sub-sections was held to the work for only four months in each year. To deprive the Israelite employer of a considerable number of his workmen for four successive months in the year would have been a serious hardship. The matter was therefore so arranged that each sub-section of 10,000 men should do its work not by continuously working for four months, but by working one month out of every three in the year of their service, so that each individual worked in the public service a total of four months in five years, that is one-fifteenth or six and two-thirds per cent of his time.

The outstanding feature of this *mas* levy was that it did not include the southland, the territory of Judah and Benjamin, while most of the magnificent structures to be built were to be located in the latter. Solomon appointed as Adoniram's chief deputy in Israel, a northerner of the northerners, Jeroboam ben Nebat, an Ephraimite.<sup>82</sup> He is described as a *gibbor hayil* (a mighty man of valor) and of untiring industry, and he was given charge "over all the labor of beth-Joseph" (the northland). Instead of faithfully performing the duties of his office, he did his best to rouse opposition to the enforcement of the *mas*. His

<sup>82</sup>1 Kings 11.26; George Adam Smith's *Historical Geography of the Holy Land*, p. 319, note.

treachery being disclosed, he fled to Egypt where he remained till Solomon's death.<sup>83</sup>

Though the discontent of Northern Israel was not relieved, Solomon's reign was so imposing that no outbreak resulted. The work went on without disturbance, and the results were, as regards the reputation of the Kingdom, of the most flattering character.

At Solomon's death, however, the rebel—Jeroboam—returned to Palestine and resumed his activity. Solomon's son and successor, Rehoboam, was of a type far inferior to his celebrated father. From the very beginning of his career he blundered. The discontented northerners at once approached him and demanded relief from the *mas*.<sup>84</sup> Jeroboam was their spokesman. Rehoboam haughtily refused, whereupon the northerners raised their old war-cry "To your tents, O Israel,"<sup>85</sup> and openly rebelled. Rehoboam, unable to grasp the situation, sent poor old Adoniram to the north with orders to enforce the *mas* relentlessly. He was killed in the attempt, the Northland seceded, Jeroboam became its first king, Jerusalem was repudiated as the capital and Beth-el was set up in its place.<sup>86</sup>

Thus the kingdom was finally divided in the year 933 B.C., for a grievance which the Northerners had endured for decades. The *mas* which took from the employer six and two-thirds per cent of his *ger's* working-time was scarcely sufficient of itself to warrant the drastic step of secession. There was undoubtedly a feeling that the South was getting an unfair advantage of the North not only in monopolizing the results of this labor, but in not contributing its proportionate share thereof. Added the tactlessness of Rehoboam and the audacious ambition of Jeroboam, and there were ample materials to produce a cataclysm.

<sup>83</sup>1 Kings 11.40.

<sup>84</sup>1 Kings 12.3, 4.

<sup>85</sup>1 Kings 12.14, 16.

<sup>86</sup>1 Kings 12.29-33; Amos 7.13.

One curious feature in connection with this subject is that many scholars understand the texts to mean that the Israelites themselves were drafted for public work and that this was the cause of the revolt. For this opinion there is no semblance of authority. There is not the slightest hint that they were ever made subject to the *corvée*, whereas all the texts concur in stating that the *gerim* were so subject. When the text tells us that Solomon levied a *mas* on *kol-yisrael*, it plainly means that he drafted their employees and thus imposed a tax on the employers.<sup>87</sup> We may assume that people three thousand years ago were not more eager to pay taxes than are our contemporaries, and that, then as now, they bandied charges that the taxes were unfairly levied, that they were excessive and that the products were unevenly distributed.

This aspect of the case many commentators and critics have overlooked and have in consequence invented the imposition of the *corvée* on the Israelites themselves, in the belief that nothing less than a severe personal grievance could have produced the great rebellion.

In the next lecture we will further consider the *ger*.

<sup>87</sup> 1 Kings 9, 20-22; 2 Chron. 8, 7-9.



## II

IN the previous lecture the *gerim* were depicted as a great, perhaps the great labor force of the Hebrew commonwealth. Though described by all the Bible translators as *strangers*, the difference between them and the *zarim* and the *nokrim*, who are also called *strangers* was dwelt upon. In addition to these classes there were two other classes of so-called *strangers* mentioned, namely the *Toshab* and the *Sakir*, to investigate whom is our next problem.

About them there is no mystery. They are mere subdivisions of the *ger*.

When the natives were reduced to feudatories they had to face abnormal conditions. The majority of them were farmers but an important minority carried on other trades. The Hebrew vocabulary is rich in the names of such occupations.<sup>1</sup>

The conquest had deprived the natives of their land-holdings. Most of them had families to support. The

<sup>1</sup>The following list, which is far from complete, will show how varied were the occupations of the inhabitants:

The <i>Omman</i>	(Cant 7.2) is a master-workman, an artist.
The <i>Ofeh</i>	(Hosea 7.6) is a baker.
The <i>Oreg</i>	(Isa. 19.9) is a weaver.
The <i>Boneh</i>	(2 Kings 22.6) is a builder.
The <i>Mekareh</i>	(Psalm 104.3) " "
The <i>Gallab</i>	(Ezek. 5.1) is a barber.
The <i>Dayyag</i>	(Isai. 19.8) is a fisherman.
or	
The <i>Dawwag</i>	(Ezek. 47.10) " "
The <i>Hobel</i>	(Ezek. 27.9) is a sailor.
The <i>Mallah</i>	(Ezek. 27.29) " "
The <i>Hobesh</i>	(Isai. 3.7) is a surgeon.
The <i>Rofe</i>	(2 Kings 20.5) is a physician.
The <i>Harash</i>	(1 Sam. 13.19) is a metal-worker.
	(2 Sam. 5.11) is a wood-worker.
	(2 Sam. 5.11) is a worker in stone.

obvious resource was to utilize their knowledge by working for the victors. The latter were not in the best condition. They had not the requisite number of skilled farmers and artisans to carry on the variegated business of the country. They needed the labor of the dispossessed natives. The result was an arrangement whereby the bulk of the native population remained where they were. They became settled as employees on the land of which they had been the owners. And these settled *gerim* were called *toshabim* (*settled*, a word related to *yashab*, to sit, just as in English, *sit* and *settled* are related). They were not employed for a season or for a limited period, but they and their progeny after them were to be on the land indefinitely—a settled peasant population.

That a minority of the natives, especially the artisans and the unmarried men, were reluctant to enter into such a service was only natural. They preferred to work for a period expressly limited and to be paid daily wages. These

	(Exod. 28.11) is a gem-engraver.
The <i>Hosheb</i>	(Amos 6.5) invents musical instruments.
	(Exod. 31.4) devises artistic constructions.
	(Exod. 26.1) develops artistry in weaving.
	(2 Chron. 26.15) invents engines of war.
The <i>Tabbah</i>	(1 Sam. 8.13) is a cook.
The <i>Tohen</i>	(Jud. 16.21) is a miller.
The <i>Yoser</i>	(Isai. 41.25) is a potter.
The <i>Kena'ani</i>	(Isai. 23.8) is a trader.
The <i>Moker</i>	(Isai. 24.2) " "
The <i>Soher</i>	(Gen. 23.16) " "
The <i>Rokel</i>	(1 Kings 10.15) " "
The <i>Kobes</i>	(Isai. 7.3) is a fuller, a washer.
The <i>Masger</i>	(2 Kings 24.14) is a locksmith.
	(Jer. 24.1) a smith.
The <i>Malbish</i>	(2 Sam. 1.24) is a clothier.
The <i>Sufer</i>	(1 Kings 4.3) is a writer.
The <i>'Amel</i>	(Jud. 5.26) works with a hammer; the laborer in general (Prov. 16.26).
The <i>Sayyad</i>	(Jer. 16.16) is a hunter.
The <i>Soref</i>	(Jud. 17.4; Jer. 10.9, 14; Isa. 40.19; Neh. 3.8, 32) is a smelter, a refiner, a goldsmith.
The <i>Rokeb</i>	(Jer. 51.21) drives a chariot.
or	
The <i>Rakkab</i>	(1 Kings 22.34) " "
The <i>Rokeah</i>	(Exod. 30.25) is a perfumer.

constituted the *sakir* class of the *ger*. The term of a *sakir's* work-contract was called *yeme sakir*<sup>2</sup> or *shene sakir*.<sup>3</sup> While ordinarily *yeme sakir* would mean *sakir's* days, yet the word *yom* besides its usual meaning of *day*, also signifies *time*, instances of which meaning are given in Brown-Driver's Hebrew Lexicon.<sup>4</sup> It is in this sense that it is used here, and it indicates that the *sakir* was hired, not from day to day, but for a fixed period. And this fixed period was, in the beginning, more than one year, as the expression *shené sakir* (literally *sakir's years*) shows. The probability is that the term of his employment was for three years. So may fairly be understood the injunction to a master releasing his Hebrew slave at the end of six years (which was the limit of a Hebrew slave's service) on the expiration of which he was to go out free. These are the words: (A.V.)

"It shall not seem hard unto thee, when thou sendest him away free from thee; for he hath been worth a double hired servant (*sakir*) to thee in serving thee six years."<sup>5</sup>

It is true that many modern scholars haughtily reject this view, but it is that of Ibn Ezra, who fortifies it by Isaiah's words in foretelling the doom of Moab, and it may well be accepted:

"Within three years, as the years of a *sakir* (*shene sakir*) and the glory of Moab shall wax contemptible."<sup>6</sup>

The probability is that in the course of time, as circumstances changed, the three-year term of the *sakir's*

<sup>2</sup>Lev. 25.50; Job 7.1; 14.6.    <sup>3</sup>Isa. 16.14.    <sup>4</sup>P, 209 – 6.    <sup>5</sup>Deut. 15.18.

Notwithstanding my repugnance to entering upon the slippery path of textual criticism, I venture in this connection to make the suggestion that the text originally read, not *mishneh sekar sakir*, but *mishneh shene sakir*. That an ancient scribe, who has since been uniformly followed, might easily have made this blunder, plainly appears when we reflect that he had three words to copy, that he kept these in mind, and that the middle word was closely related to the *first*. While writing he made it closely related to the *third* instead of the *first*, a mistake the like of which many of us have made since his day. Had he acted otherwise than mechanically, he could not have escaped the reflection that the wage of the *sakir* was paid every evening, while the reward of the *'ebed* was principally, if not altogether, in kind, and could bear no analogy to the *sakir's* daily wage payment.

<sup>6</sup>Isa. 16.14.

contract was reduced to one year. This may fairly be inferred from the expression used concerning the term of a Hebrew who has sold himself as a slave to a *ger we-toshab*. Instead of being doomed to perpetual servitude he must be viewed as a *sakir shanah be-shanah* (a *sakir* from year to year).<sup>7</sup>

Our thesis that the *ger* were composed of the two classes *toshab* and *sakir* seems provable from the records.

They are grouped together in several instances in a way that shows their close connection in *status*.

A striking example of this is to be found in the important *Pesah* statute,<sup>8</sup> which commands a ceremony sacrosanct, in commemoration of the Exodus from Egypt. It is therefore of special concernment to Israelites and participation in it by non-Israelites is eschewed. As there are many of the latter connected with Israel, the relations of the several groups are carefully defined. The groups spoken of are the following:

- a) The whole congregation of Israel<sup>9</sup>
- b) The *ben-nekar* (the unmitigated alien)<sup>10</sup>
- c) The *miknat kesef* (purchased *nokri* slave)<sup>11</sup>
- d) The *toshab* and *sakir*<sup>12</sup>
- e) The *ezrah ha-areṣ*<sup>13</sup>
- f) The *'arel* (uncircumcised)<sup>14</sup>
- g) The *ger*<sup>15</sup>

Superficially read, there would appear to be six groups of outsiders. Careful examination shows that there is not so great a number. The ultimate test is, that one who has not been initiated into the covenant of Abraham (the *'arel*), may not eat of the Paschal lamb. This condition of inadmissibility was, of course, normal in the case of the *ben-nekar*, the man who was and would remain a complete

<sup>7</sup>Lev. 25.53.

<sup>8</sup>Exod. ch. 12 and the Supplement thereto Num. 9.1-14.

<sup>9</sup>Exod. 12.47.

<sup>10</sup>Exod. 12.43.

<sup>11</sup>Ibid. 12.44.

<sup>12</sup>Ibid. 12.45.

<sup>13</sup>Ibid. 12.48, 49.

<sup>14</sup>Ibid. 12.48.

<sup>15</sup>Ibid. 12.48.

outsider. The *miknat kesef* was a *ben-nekar* by origin, but according to the traditional custom, it was the duty of the master to initiate his slave whether house-born or purchased<sup>16</sup> and hence the ordinance admits him to participate after such initiation.<sup>17</sup>

The *toshab* and *sakir* are here named together, and their participation in the Paschal ceremony is forbidden. Respecting them there would appear to be no alleviation. And yet such a state of affairs seems highly improbable. The purchased *nokri* slave, may, after complying with the condition, join in the festival. Respecting the house-born slave not a word is said because his initiation into the Covenant is assumed as a matter unquestionable.

The *toshab* and *sakir* work by their side for the same master. Keeping in mind the imitative and assimilative qualities of humankind, it is incredible that they would not want to do what not only the master did, but what the slave, whom they looked down upon, had the privilege of doing. It is equally improbable that the ordinance would sternly exclude the *toshab* and the *sakir* if they were willing to leave the 'arel class. Nor did the ordinance do so. When it permitted the *ger*, after the admission of himself and his males into the Abrahamic covenant, to partake of the Paschal lamb, it was merely substituting the term *ger* for its species, *toshab* and *sakir*. Bertholet, who has studied the subject more closely perhaps, than any other commentator, is of this opinion. These are his words: "Vielmehr ist *ger* der Allgemeinbegriff, unter den sich *toshab* subsumiert."<sup>18</sup>

If these views are correct it would follow that the only class absolutely inadmissible to participate was the *nokri*, the *ben-nekar*, the hostility to whom was dwelt upon in

<sup>16</sup>Gen. 17.13.      <sup>17</sup>Exod. 12.44.

<sup>18</sup>Bertholet, *Die Stellung der Israeliten und der Juden zu den Fremden*, p. 159.

the preceding lecture. Though the *gerim*, whether *toshab* or *sakir* could join in the festival, they were perfectly free to refrain from so doing. While their gradual assimilation was likely to occur, no pressure was to be brought to hasten the process. The words are: "If the *ger* . . . will keep the passover. . . ."<sup>19</sup> leaving the matter to their option and initiative.

The groups mentioned have now been considered excepting only the *ezrah ha-areş*. The versions present various translations but with vexatious unanimity understand this term to mean invariably the Israelite himself.

To this rendering there are serious objections. To consider it now would be a hindrance to the elucidation of the main questions and it must therefore be deferred till later.

This much may, however, be said at this point. In our view the *ezrah ha-areş* or as it is alternatively written, the *ezrah* are terms that in the majority of instances mean *Israel* but in the rest have another meaning, the phenomenon being due to changes arising in the course of Hebrew history.

We will now return to our *toshab* and *sakir*. They are mentioned together in the regulations concerning the priesthood. The latter are allowed the *kodashim* (holy things) for their sustenance, but outsiders are excluded. Among these outsiders are the priest's *toshab* and *sakir*. They may not eat of it, though his slaves purchased and home-born are allowed to eat of it.<sup>20</sup> The difference between these two kinds of laborers is that the slave, as was explained in the previous lecture, has virtually become a member of the family, and as such joins in the family worship, whereas the *toshab* and *sakir* contemplated by the ordinance are freemen who are not to be persuaded to

<sup>19</sup>Exod. 12.48.

<sup>20</sup>Lev. 22.10,11.

become proselytes. And even if they left the *'arel* class they would still be excluded from the *kodashim*, because the ordinary Hebrew layman (here called *zar*) is equally barred.<sup>21</sup>

The next instance relates to the produce of the seventh (the sabbatical) year when there must be neither sowing nor reaping. What the land spontaneously produces may be used for food

by *thee* (the owner)

by *thy 'ebed* (slave)

by *thy amah* (female slave)

by *thy sakir*

by *thy toshab*<sup>22</sup>

Here the *sakir* and the *toshab* are placed in the same category with the slave and are in like manner spoken of *possessively*, indicating that there is the relation of master and servant. There is no mention of *thy ger* as in other analogous instances, for the obvious reason that the classes mentioned are the two species of the *genus ger*.

In the preceding lecture the same use of the possessive pronoun in connection with the *ger* was shown and dwelt upon.

And, last but not least, the position of the *sakir* and *toshab* as employees is emphatically illustrated in the case of a Hebrew who has become impoverished and has sold himself to a prosperous man of his own nation. Though the greed of the buyer and the desperate straits of the seller may have co-operated to make a contract whereby the poor wretch was to become an *'ebed* (slave), the law steps in and annuls it as contrary to the public policy of the state. The poor man's status is to be that of *ger we-toshab* or alternatively of *sakir* or of *toshab*,<sup>23</sup> the various names being practically equivalent to *ger*.

<sup>21</sup>Lev. 22.10.

<sup>22</sup>Ibid. 25.4-6.

<sup>23</sup>Lev. 25.34, 40.

In this connection it is well to consider the case of the Hebrew who has become impoverished and has sold himself to a prosperous *ger we-toshab* or to one of the latter's kin. However stringent the contract, the law reads into it a provision that the Hebrew may at any time be redeemed on fair terms, either by himself if he become able, or otherwise, by any of his kin. In no event can he be held beyond the jubilee year. In arranging the terms of redemption the time already served is to be used in the computation as if the poor man had been serving *sakir's* time (*yemé sakir*). Indeed he is to be considered and treated as a *sakir shanah be-shanah* (a *sakir* from year to year).<sup>24</sup>

A comparison of the two cases invites attention to facts that are noteworthy. The outstanding feature is that the *ger we-toshab* is in a position to employ a Hebrew to work for him. The desire on the *ger we-toshab's* part to call for such help is based on his prosperity and on a form of it which is nowhere expressly mentioned but seems necessarily implied. He is a peasant living with his family on a Hebrew's land, deriving his and their sustenance from it, with perquisites perhaps in the form of wages, which are unascertainable from the records. A Hebrew landowner alongside of him is too impoverished to continue on his land any longer and must seek a means of earning a livelihood for himself and family. He makes an arrangement with the *ger we-toshab* whereby the latter will employ him, perhaps leasing to such employer for a limited term the land which he himself can no longer manage. While the *ger we-toshab* may not *own* land there is no authority for believing that he might not lease it for a limited term. If he does so, he may not employ the unfortunate owner as a peasant (*toshab*) but must hire him as a *sakir*, a laborer, whose wage must be paid daily.

<sup>24</sup>Lev. 25.47-54.



In this connection it may not be amiss to remember that the *sakir* is also capable of attaining a certain prosperity. Probably such an achievement was rarer in the case of a *sakir* than in that of a *toshab*, but it was practicable.

The only recorded instance is that of a *sakir* who owns an animal and hires himself out to work with it, naturally for a wage much greater than he would earn for his own work without such aid. The text has given endless trouble to the translators. The King James version renders it thus:

"And if a man borrow aught of his neighbor (*rea*'), and it be hurt, or die, the owner thereof being not with it (*'immo*), he shall surely make it good. But if the owner thereof be with it (*'immo*), he shall not make it good; if (*im*) it be an hired thing (text: *sakir*) it came for his hire."<sup>25</sup>

The English Revision makes it:

"And if a man borrow aught of his neighbor and it be hurt or die, the owner thereof not being with it, he shall surely make RESTITUTION. If the owner thereof be with it he shall not make it good; if it be a hired thing (*sakir*) it came for ITS hire."

The J.P.S. version is like the English Revision except that it renders the last clause thus: "if it be a hireling (*sakir*) he loseth his hire."

The King James version and the English Revision make of the *sakir*, a hired *thing*. The J.P.S. version on the other hand appears to make the *sakir*, a person (as he really is), but what the meaning of its whole phrase is passes my understanding.

There appears to have been a general obsession that a *sakir* could never be rich enough to own an ox or a cow, and therefore to conceive him as hiring himself out to work with his animal did not occur to them.

<sup>25</sup>Exod. 22.13, 14.

Kautzsch in his German version of the Scriptures is unable to give a satisfactory translation and therefore leaves the last clause untranslated, giving his reasons in a note, of which the following is a translation:

"The last phrase is of quite uncertain meaning. It is usually translated thus: 'If it (the animal) was hired, the loss is on the hire', i.e. the loss is to be reckoned and covered by the hire. But, in the first place, the word *sakir* always means a day-laborer, and in any event, it would be monstrous to consider the value of the animal as being covered by the hire, which, after all, is but a small fraction of its value. On the whole, therefore, it would seem that this additional phrase has no bearing on the subject of hiring an animal and refers only to the negligence of a hired man in failing to care for the loaned animal. In that view, the phrase would mean: 'If it be a hired man who is responsible for the loss, it falls on his wages, i.e. he must work till he earns enough to pay for the loss.'"<sup>26</sup>

Kautzsch was on the right track, though he wandered from the path and failed to reach the goal.

The difficulty is caused by the failure to grasp the special meaning of the word *rea'* and the particular intimation conveyed by the word *'immo* (beginning with an *'ayin*) and by the word *im* (beginning with an *alef*).

It is however the word *rea'* which is most important in this connection. The versions agree in rendering it "neighbor" which is its usual signification. Here, however, it has another and a special meaning, though at bottom, this special meaning has the same ethical implications as the general meaning. This question, "who is my neighbor," is the text of a fine piece of *Midrash* in Luke.<sup>27</sup> We cannot however ascertain exact legal definitions by hortatory exposition, however beautiful.

<sup>26</sup>Kautzsch, *Die Heilige Schrift des alten Testaments*, Freiburg, i. B. and Leipzig' 1894. Beilagen p. 2.

<sup>27</sup>Luke 10.29-37.

It will be remembered that the great body of native workmen were called *ger* (stranger). As the new lords of the land developed its industries, there inevitably arose considerable classes of Hebrew laborers, men, who, either had lost the land originally assigned them or some perhaps who had never received any.<sup>28</sup> These Hebrews came by degrees to practise the various trades at which the *ger* worked. With agriculture they were more or less familiar and doubtless the majority of these workmen chose farming. Thus they worked alongside of the *ger*. The national pride forbade the calling of these brethren *ger*, though this word had practically come to mean "laborer." In contrast to the *ger* (stranger) they called their Hebrew workman, *rea'* (neighbor, friend). It is to be noted that though the Hebrews balked at calling their laboring tribesman *ger*, they did in time call such of them as worked for daily wage, *sakir*, though the latter were originally one section of the *ger*.

The following ordinance shows this use of the word:

"Thou shalt not oppress a *sakir 'ani we-ebyon* (the versions render: a hired servant that is poor and needy) whether he be of *thy brethren* or of *thy ger* that are in thy land within thy gates. In the same day thou shalt give him his hire, neither shall the sun go down upon it; for he is poor (*'ani*) and setteth his heart upon it. . . ."<sup>29</sup>

<sup>28</sup>Num. 1,2, 3 tells us that prior to the invasion of Canaan, a census was taken of all the males "from twenty years old and upward, all that were able to go forth to war in Israel." Upon the basis of the registry so made the conquered land was to be divided. The question arises whether "and upward" was intended to include men of senile age or whether there was a maximum age for military service. That there was some limit seems intrinsically probable, and this probability is enhanced by the narrative which makes Caleb, in his eighty-fifth year declare himself as still fit for war (Josh. 14,11). Had he been on the registry, such a remark would have had no reason. It is still further strengthened by the statement of Josephus (Antiq. Book 111, ch. 12, 4) that the limit was fifty years. Though he is not always to be relied on, he is in this instance probably right, especially in view of the current opinion that man's normal span of life is seventy years (Psalm 90,10). If this hypothesis be correct it would follow that some were landless from the very beginning. Add to this the inevitable differences in the fertility of soil and in the ability and efficiency of the owners, and causes for distress and impoverishment will not be wanting.

<sup>29</sup>Deut. 24,14, 15.

Returning now to our *rea'* we find in the prophetic writings satisfactory evidence of its use to mean workman.

Jeremiah in his great sermon on morality delivered at the gate of the Lord's house, exhorts his hearers as follows:

"Thoroughly amend your ways and your doings; thoroughly execute justice between a man and his *rea'*, oppress not the *ger*, *yatom* or *almanah*."<sup>30</sup>

Note the parallelism between the *rea'* and the *ger*. More explicit still is his cry against the King Jehoiakim:

"Woe unto him that buildeth his house by unrighteousness,

And his chambers by injustice,

That useth his *rea'*'s service for nothing

And giveth him not his hire (*po'alo*)."<sup>31</sup>

And comparing the King unfavorably with his father, he dwells on the latter's justice and righteousness in that he judged the cause of the '*ani*' and the *ebyon*, whereas the son is a covetous oppressor.<sup>32</sup>

Again in Zedekiah's time he reproaches all the powers of the state, namely, the princes of Jerusalem, the *sarisim* and the priests and the whole '*am ha-areṣ*'<sup>33</sup> with dereliction in not securing liberty for all including every man's *rea'*.<sup>34</sup>

Ezekiel is equally bitter. His reproaches directed to the princes of Israel enumerate among their other delinquencies that they have dealt by oppression with the *ger*, the *yatom*, the *almanah*<sup>35</sup> and the *rea'*.<sup>36</sup>

Proverbs has this significant passage: He that despiseth his *rea'* sinneth, but he that is gracious to the '*aniyyim*' happy is he.<sup>37</sup>

There are passages in the Pentateuch on similar lines:

"A *ger* thou shalt not wrong, neither shalt thou oppress him; for ye were *gerim* in the land of Egypt. Ye shall

<sup>30</sup>Jer. 7.5, 6.

<sup>31</sup>Jer. 22.13.

<sup>32</sup>Ibid. 22.15-17.

<sup>33</sup>Ibid. 34.19.

<sup>34</sup>Ibid. 34.17.

<sup>35</sup>Ezek. 22.7.

<sup>36</sup>Ezek. 22.12.

<sup>37</sup>Prov. 14.21.

not afflict any *almanah* or *yatom*. . . . If thou lend money to any of my people, even to the '*ani* '*immak* (versions: the poor with thee) thou shalt not be to him as a creditor, neither shall ye lay upon him interest. If thou at all take thy *rea*'s garment to pledge, thou shalt restore it to him by that the sun goeth down; for that is his only covering, it is his garment for his skin; wherein shall he sleep? . . ."<sup>38</sup>

Note here the classification: *ger*, *almanah*, *yatom*, '*ani* '*immak*, *rea*'. Again: "Thou shalt not oppress thy *rea*', nor rob him; the wages of a *sakir* shall not abide with thee all night until the morning."<sup>39</sup>

Here *rea*' and *sakir* are in juxtaposition, if indeed they are not alternative expressions meaning the day-laborer.

And now as to the word '*immo*.

This word '*im*, among its numerous meanings, has one which expresses the idea of employment. The versions simply translate "with" apparently ignoring the special meaning here present.

Instances of the use of the word with this special meaning are not wanting. We have an interesting series of passages relating to an important event in the life of the patriarch Jacob.

When he had roused his brother Esau's enmity, his mother feared for his life and begged him to go to Haran to her brother Laban "and tarry *with him* a few days," until Esau's fury should abate.<sup>40</sup> Though mother and son knew that it was not a trifling journey to Paddan-aram, and that Esau's wrath was not so short-lived, that a few days or a short time would see matters adjusted, yet need we not quarrel with the mother's loving belittlement of the difficulty. She did not intend to be understood literally and Jacob easily divined her intention. Indeed the same

<sup>38</sup>Exod. 22.20-26.

<sup>39</sup>Lev. 19.13.

<sup>40</sup>Gen. 27.42-45.

expression occurs in the narrative of Jacob's love for Rachel which was so great that his service of seven years for her seemed to him but "a few days."<sup>41</sup>

Rebecca did not expect her son to pay a visit to her brother in order to enjoy a genteel vacation. She knew that when there, he would be expected to earn his living by working for it. And so indeed it happened. We are told what he did:

"And he (Jacob) abode '*immo* (with him, Laban) for the space of a month."<sup>42</sup> This is the way the versions put it, the real meaning being that he served him (worked for him) for that time. The next verse proves this. Laban says to Jacob: "Because thou art my nephew (*ah*) shouldst thou therefore serve me for naught? Tell me, what shall thy wages be?"<sup>43</sup>

And when Jacob departed and there was bad blood and chiding between him and Laban, the former remarked: "These twenty years have I been *with thee*," plainly meaning "These twenty years have I worked for thee."<sup>44</sup>

The twenty-fifth chapter of Leviticus, which treats of the sabbatical year and the year of jubilee uses this preposition '*im* freely.

We may quote in this connection the already cited sixth verse, which the translators have found troublesome.

The J.P.S. version renders: "And the sabbath-produce of the land shall be food for you: for thee, and for thy servant ('*ebed*), and for thy maid (*amah*), and for thy hired servant (*sakir*), and for 'the settler by thy side' (*toshabeka*), that 'sojourn with thee' (*haggarim* '*IMMAK*')."

According to our hypothesis the latter part of the sentence really means: "And for thy *sakir* and for thy *toshab* that are in thy employ."

Another instance is the provision regarding the fugitive

<sup>41</sup>Gen. 29.20.

<sup>42</sup>Gen. 29.14.

<sup>43</sup>Ibid. 29.15.

<sup>44</sup>Ibid. 31.38.

slave.<sup>45</sup> The J.P.S. version is: "Thou shalt not deliver unto his master a bondman (*'ebed*) that is escaped from his master unto thee. He shall dwell *with thee* (*'immeke*) in the midst of thee, in the place which he shall choose within one of thy gates, where it liketh him best; thou shalt not wrong him (*lo tonennu*)," the meaning of which is:

Thou shalt not deliver unto his master a bondman (*'ebed*) that is escaped from his master's service (*me'im adonaw*) unto thee. He shall settle in thy employment (*'immeke*) in thy midst, in the place which he shall choose within one of thy gates which it liketh him best; thou shalt not wrong him."

Here we see that the slave has escaped from "*with his master*." That relation is not one of friendly intimacy or of equality. It is the relation of servitude. Nor is the new relation which is to be established for the fugitive any other than one of employment. It also is described by the same preposition *'im*.

Moreover there is the significant prohibition *lo tonennu*, thou shalt not maltreat him, a verb habitually used to describe the ill-treatment of the workman, the *ger*, which goes far to indicate that the *employment* of the fugitive slave is contemplated.<sup>46</sup>

Other instances of the use of this preposition *'im* in the sense of being in another's employment are numerous.<sup>47</sup>

There is the story of Micah a rich Ephraimite who had a little temple of his own in which he set up *ephod* and *teraphim* and consecrated one of his sons to be the priest (Kohen).

And there came along a Levite, seeking employment. In those early days, there must have been a class of trained

<sup>45</sup>Deut. 23.16, 17.

<sup>46</sup>Instances of the use of this verb in connection with the oppression of the *ger* or other employees are Exod. 22.20; Lev. 19.33; Je. 22.3; Ezek. 18.12; 22.7, 29.

<sup>47</sup>Lev. 25.50, 53; Deut. 15.16; Jud. 17.10; 1 Sam. 2.21.

priests called Levites, who sought employment in their capacity in every one of the tribes.

Micah said to him: "Dwell with me (*'immadi*) . . . and I will give thee ten pieces of silver by the year, and a suit of apparel and thy victuals." (J.P.S. version.) The Levite cheerfully accepted, whereupon Micah installed him and he became Micah's priest, at which Micah greatly rejoiced, believing that the Levite had much more influence with the Lord than his own son would have had, who was after all but an amateur and not a professional priest.<sup>48</sup>

The last example we shall cite of this use of the word *'im* is perhaps the most interesting. It is part of the history of the prophet Samuel.<sup>49</sup> The versions agree that the lad "grew before the Lord," the text using the word *'im*. The true meaning must be that the acolyte Samuel was reared *in the service of the Lord*.

When we remember that his mother devoted him to the Lord's service when he was a mere babe<sup>50</sup> and that the child ministered unto the Lord before the priest Eli,<sup>51</sup> we must conclude that the narrative records the lad's progress in the service.

This use in Hebrew of the word *'im* (with) to denote employment, has its analogue in our ordinary English. We have all heard men say, sometimes with evident self-sufficiency, that they are *with* a great corporation, or a leading mercantile or banking establishment. They do not mean to assert that they are chief or part owners of the business. All they wish us to understand is that they are of its employees.

The third word that contributes to the difficulty is *im*, the general meaning of which is "if." It may however, on occasion, mean "when."<sup>52</sup>

<sup>48</sup>Jud. 17.7-13.

<sup>49</sup>1 Sam. chs. 1-3.

<sup>50</sup>1 Sam. 1.28.

<sup>51</sup>1 Sam. 2.11, 18; 3.1.

<sup>52</sup>Brown-Driver, Lexicon, p. 50, *sub voce* *Im* b4.



Having digressed long enough from the main subject in order to elucidate these three words, we may now, in the light of the suggestions put forward, return to our text and seek to make it clearer than the versions have succeeded in doing.

This is the way in which we would explain it:<sup>53</sup> "And if a man borrow aught of his *rea'* (Hebrew employee) and it be hurt or die, the owner thereof not being employed with it, the borrower must make restitution. If the owner thereof be employed with it, the borrower need not make it good. When the man is *sakir* (that is, hired with his animal to work for a stipulated daily wage), this wage covers everything, the labor of the man, the labor of the animal and the risk of the animal's injury or death while employed in the work under its owner."

The legal reason for the rule if thus established is impeccable. Under the circumstances, when the owner of the animal is himself using it, an injury suffered by it could not with any show of justice be charged to the employer of the man and the beast. It was the duty of the owner to care for his beast. It was under his control and if it was negligently used, the fault is the owner's and not the employer's.

The Mishna seems to understand the law in the same way. In discussing our text it lays down these principles: "If a man borrow a cow and, at the same time or before, hire its owner, and the cow is hurt or dies, the borrower is not liable to pay for the cow, because the Bible says (Exod. 22.14): 'If the owner thereof be with it, he need not make it good.'"<sup>54</sup> It evidently identifies the owner of the cow with the *sakir* who has been hired with it or before it, and who works with it.

We have, however, not yet finished with the Toshab.

<sup>53</sup>Exod. 22.13, 14.

<sup>54</sup>Mishnah, *Baba Mesi'a*, 8.1.

He also appears in the expression *ger we-toshab* and once as *ger toshab*.

Considerable learning has been expended on the difference between these two forms. As they obviously have the same meaning, the variation need not further concern us.

When Abraham, after the death of his wife Sarah, felt reluctant to bury her in a cemetery over which he would have no control, he applied to the *bene-Heth*, the natives of the land, and began by saying: I am *ger we-toshab* with you,<sup>55</sup> meaning that though he considered himself a resident, he recognized the law that, as a *ger*, he could not be the absolute owner of land. He therefore appealed to them to make an exception under the sad circumstances. Their replies were courteous. They offered him the use of any of their own sepulchres, which would require no infringement of the settled law. He, however, persisted in his request for a sepulchre which would be his absolute property (*ahuzzah*), and they graciously complied with his request. Needless to say, the lord of the land accepted full payment in silver for the field of Machpelah and the cave that is therein.<sup>56</sup>

That the inability of the *ger we-toshab* to own land in perpetuity was an accepted doctrine among the Hebrews, appears plainly from the terms of the jubilee law, which required the return in that year, of all purchased land, to its original owner,<sup>57</sup> the reason stated being that the land itself is God's, and that the human beings who claim its ownership are, as regards Him, merely *gerim we-toshabim*,<sup>58</sup> who, of course, could not be absolute owners.

When the Hebrews are forbidden to hold fellow-Hebrews as slaves, there is leave granted them to acquire '*ebed* or *amah* from the surrounding nations,<sup>59</sup> and also

<sup>55</sup>Gen. 23,4.

<sup>56</sup>Gen. 23,5-20.

<sup>57</sup>Lev. 25,10.

<sup>58</sup>Lev. 25,23.

<sup>59</sup>Ibid. 25,44.

from the *toshabim* in their employ.<sup>60</sup> Mention has already been made of the fact that these *toshabim* may reach a certain degree of prosperity. An interesting linguistic circumstance in that regard is the fact that such a prosperous *toshab* is spoken of in the same verse as *ger we-toshab* and as *ger toshab*.<sup>61</sup>

It is time now to return to our simple *ger* uncomplicated with *toshab* or *sakir*.

The presence of a large population in an inferior position but in close relations with Israel would naturally result in a gradual abandonment by them of many prior practices and in a progressive assimilation with the practices of their employers. The absorption of the slave population in the religious community of Israel would be an element tending to hasten such a process.

To determine the course it actually took may be difficult but not quite impossible. The records give us evidence which may be arrayed under the following heads:

A. The gradual admission of the *ger* to participation in the national religious festivals.

B. Their gradual subjection to laws imposed primarily on Israelites alone.

C. Their presence on occasions of extraordinary solemnity as if they were an integral portion of Israel.

D. The careful provisions made for their gaining and maintaining material advancement.

A. Their position in regard to the festivals:

In the Paschal lamb celebration, the *ger* were not expected to participate. They were supposed, in general, to maintain their own religious rites and peculiarities, but provision was made that if any one of them desired to join the Israelites in this solemn ceremony, he was at liberty to do so, if he complied with the one condition

<sup>60</sup>Ibid. 25.45. The words are: "mi-bene ha-toshabim ha-garim immakem."

<sup>61</sup>Ibid. 25.47.

imposed, namely that he and the male members of his family should leave the class of *'arelim* and become initiated into the covenant of Abraham.<sup>62</sup>

This was evidently at an early period when it was considered unwise to permit the employer to persuade his *ger* to adopt Hebrew customs, but the latter was left free to act according to his own desire, without interference of any kind.

And the supplemental ordinance which established for certain emergencies, a passover of the second month for those who could not lawfully celebrate it in the first month, has the same provision for the *ger* who wishes to avail himself of it, reference being made to the original *Pesah* ordinance as the norm.<sup>63</sup>

The festival closely related to that of the Paschal lamb is the *Maṣṣah* festival, (the festival of unleavened bread).<sup>64</sup> The ordinance establishing it provides that Israelites must eat unleavened bread during seven days and that leaven must be put away out of the houses and "whosoever eateth leavened bread from the first day until the seventh day, that soul shall be cut off from Israel."<sup>65</sup> As this like the Paschal lamb celebration commemorated Israel's Exodus from Egypt, it was but natural that the command should be limited to Israel alone. Later on, however, in the same chapter, the ordinance is repeated, but this time three words are added *ba-ger u-be-ezrah ha-areṣ*, which the versions render "whether he be a sojourner or one born in the land."<sup>66</sup> Without stopping to analyze the meaning of this addition, it may be remarked, that in view of the fact that the punishment was excision from Israel, its denunciation against a non-Israelite like the *ger* would seem strange. The explanation of the apparent inconsistency is to be found in the additional prohibition

<sup>62</sup>Exod. 12.49.

<sup>63</sup>Num. 9.14.

<sup>64</sup>Exod. 12.18; Deut. 16.3.

<sup>65</sup>Exod. 12.15.

<sup>66</sup>Exod. 12.19.

that "seven days there shall be no leaven found in your houses."<sup>67</sup> This could not be enforced, if there were a group of inhabitants who were at liberty to eat leaven. The *ger* were not directed or compelled to assume a religious duty of Israel, but they were prevented from interfering with the religious practices of Israel. The *Maṣṣot* ordinance therefore viewed the *ger*, just as did the Passover ordinance, that is, neither considered him as being religiously affiliated with Israel.

Other texts on the subject are to the same effect: "There shall no leavened bread be seen with thee, neither shall there be leaven seen with thee in all thy borders."<sup>68</sup>

Affirmation of this view of the *ger's* position is found in the fact that there was to be a holy convocation and a cessation of servile labor in Israel on the first and the last days of the seven,<sup>69</sup> but there is no word respecting the *ger* in this connection. He is not expected to assist in the celebration of the festival. His sole part is to avoid interference with the enforcement of the leaven prohibition.

The *ger's* religious aloofness is maintained in regard to the Day of Atonement. The ordinance is directed to Israel alone and no one else is included. It is to be a fast day and a rest day; and whosoever breaks the rule against certain forbidden indulgence "shall be cut off from his people," and whosoever works on that day will be destroyed "from among his people."<sup>70</sup>

Another version of the ordinance<sup>71</sup> presents a variation in that it brings in the *ger*. After directing like the other, that ye shall afflict your souls and shall do no manner of work, it like the *Maṣṣah* ordinance has the words: *ha-ezrah we-ha-ger ha-gar betokekem* which the versions similarly render 'whether it be one of your own country or a

<sup>67</sup>Exod. 12.19.      <sup>68</sup>Exod. 13.7; Deut. 16.4.

<sup>69</sup>Exod. 12.16; Lev. 23.7, 8; Num. 28.18, 25; Deut. 16.8.

<sup>70</sup>Lev. 23.27-32; Num. 29.7.      <sup>71</sup>Ibid. 16.29.

stranger that sojourneth among you' (King James); 'the home-born or the stranger that sojourneth among you' (J.P.S.). The true bearing and meaning of the added clause will be discussed hereafter. For the present, it is enough to note that the *ger* must abstain from work not because of any religious obligation resting on him, but rather in order that this day of solemn rest might not be marred by anybody's working.

The New Year's day (*Rosh ha-Shanah*) ordinance has no reference whatever to the *ger*. It is to be a solemn rest, a memorial, a holy convocation. No servile work may be done thereon,<sup>72</sup> but it is for Israel alone and the *ger* is not called upon to do, or to refrain from doing, anything.

Even the ordinance establishing the weekly Sabbath<sup>73</sup> with all its anxious care that the *ger* shall not work on that day, gives no inkling of an approach to a religious fellowship with Israel. It is a day of rest and work therein is forbidden, but the grounds of the prohibition are addressed to Israel alone. They are based on Israel's relation to God and have no hint concerning those who worship other gods. These grounds are: the Lord's resting on the seventh day after the six days of creation<sup>74</sup> and His leading Israel out of Egyptian bondage.<sup>75</sup>

The *ger* is exempted from labor just as are the beasts used in agricultural work: "that thine ox and thine ass may have rest, and thy *ben-amah* and the *ger* may be refreshed."<sup>76</sup> The ultimate aim of such a policy was to enforce Sabbath rest on Israelites themselves, which would have been impossible had their heathen workmen been allowed to cultivate their fields and perform other labors. That such enforcement was no easy matter, we learn from the earnest protests of the prophets:

"If thou turn away thy foot because of the Sabbath,

<sup>72</sup>Lev. 23,24, 25; Num. 29.1.

<sup>73</sup>Exod. 20, 10; Deut. 5.14.

<sup>74</sup>Exod. 20.11.

<sup>75</sup>Deut. 5.15.

<sup>76</sup>Exod. 23.12.

From pursuing thy business on My holy day;  
 And call the Sabbath a delight,  
 And the holy of the Lord honorable,  
 And shalt honor it, not doing thy wonted ways,  
 Nor pursuing thy business, nor speaking thereof;  
 Then shalt thou delight thyself in the Lord."<sup>77</sup>  
 Thus far Isaiah; Jeremiah is equally emphatic.<sup>78</sup>

Indeed, the country people who were pious, construed the Sabbath ordinances in a comfortable way. They evidently believed that their animals though not to be used for agricultural work on the Sabbath, might well carry them on a journey. When the Shunnamite's beloved son died, and she wished to consult Elisha in order that the child might be revived, she called to her husband, who was not informed of the calamity: "Send me, I pray thee, one of the servants and one of the asses, that I may run to the man of God and come back." And he answered: "Wherefore wilt thou go to him to-day? *it is neither New Moon nor Sabbath.*"<sup>79</sup> Had it been such, he would have deemed her request quite proper. Needless to say, she did as she wished.

The command to observe the Feast of Weeks (*Shabu-'ot*) is:

"Seven weeks shalt thou number unto thee; from the time the sickle is first put to the standing corn shalt thou begin to number seven weeks. And thou shalt keep the feast of weeks unto the Lord thy God, after the measure of the free-will offering of thy hand, which thou shalt give, according as the Lord thy God blesseth thee. And thou shalt rejoice before the Lord thy God, thou and thy son and thy daughter and thy man-servant (*'ebed*) and thy maid-servant (*amah*) and the Levite that is within thy gates, and the *ger* and the *yatom* and the *almanah* that

<sup>77</sup>Isa. 58.13, 14.

<sup>78</sup>Jer. 17.21-27.

<sup>79</sup>2 Kings 4.23.

are in the midst of thee, in the place which the Lord thy God shall choose to cause His name to dwell there."<sup>80</sup>

There is also the provision: "There shall be a holy convocation unto you; ye shall do no manner of servile work."<sup>81</sup>

This injunction to refrain from labor does not mention the *ger*. When, however, the *ger* is directed "to rejoice before the Lord" in the religious capital of the nation, it is clear that it becomes the employer's duty to travel from his dwelling-place to Jerusalem and to bring with him to this rejoicing before the Lord, not only his own family, but the Levite, the *ger*, the *yatom* and the *almanah* that dwell with him.

This classification of the Levite with a working peasant, which seems strange at first, attests the fact, that at an early time, Levites wandered about the country and obtained employment as paid priests to private persons, as was the case with Micah referred to in the previous lecture.<sup>82</sup>

All of an Israelite's employees are to participate in the ceremonies at Jerusalem, and we have here an advance in the *ger's* religious position. He is no longer a mere instrument to assist in enforcing certain religious duties on his employer, but has acquired a distinct status of his own. From a merely negative assistant, he has become a principal.

This advance is maintained in the *Sukkot* ordinance.<sup>83</sup> The classes commanded to rejoice at *Shabu'ot* are likewise to do so in this festival. There is also to be a holy convocation on the first day and a solemn assembly on the eighth.<sup>84</sup> "Ye shall do no manner of servile work, and ye shall keep a feast unto the Lord seven days."<sup>85</sup>

That this advance was but a step forward in the

<sup>80</sup>Deut. 16,9-11.

<sup>81</sup>Lev. 23,21.

<sup>82</sup>Jud. 17,5-15.

<sup>83</sup>Deut. 16,14.

<sup>84</sup>Num. 29,35.

<sup>85</sup>Num. 29,12, 35.



process of the *ger's* religious assimilation appears from another version of the ordinance which after providing as did those already cited adds the following:

"Ye shall take you on the first day the fruit of goodly trees, branches of palm-trees and boughs of thick trees, and willows of the brook, and ye shall rejoice before the Lord your God, seven days. . . Ye shall dwell in booths seven days; every *ezrah* in Israel shall dwell in booths; that your generations may know that I made the children of Israel dwell in booths, when I brought them out of the land of Egypt. . ."<sup>86</sup>

These special commemorative ceremonies do not include the *ger*. Another class however, the *ezrah* in Israel must, like the Israelites themselves, dwell in booths; the *ger* may not do so. Here, as elsewhere, the versions understand the *ezrah* to mean the Israelite himself, and the commentators have been much troubled about him. The consideration of his real position must be deferred with the caution, however, that we regard him as being by origin a non-Israelite, though rapidly approaching complete assimilation.

The conclusion is that as regards national religious festivals the *ger* had advanced towards assimilation but had not gone more than halfway in the process.

B. Besides the *ger's* part in festivals, his obligation to obey certain laws binding Israelites primarily, was another forward step in his assimilation. There are several instances of this kind.

It was the duty of the Israelite to present his offering at the door of the tent of meeting (*ohel mo'ed*), failure to do which was punishable by the offender's being "cut off from among his people."<sup>87</sup>

This duty was extended to the *ger* under like penalty

<sup>86</sup>Lev. 23.40, 42, 43.

<sup>87</sup>Lev. 17.3, 4, 8, 9.

of being "cut off from his people" meaning Israel.<sup>88</sup>

So likewise was the eating of blood by Israelite or by *ger* similarly penalized.<sup>89</sup> The summing up was: "No person (*nefesh*) among you shall eat blood, neither shall any *ger* among you eat blood."<sup>90</sup>

The *bene-Israel* were forbidden to give any of their children to make them pass through the fire to Molech.<sup>91</sup> As this was an odious pagan custom the penalty of being cut off from among their people <sup>92</sup> was none too severe.

This prohibition was extended to the *ger*<sup>93</sup> under like penalty. Some of them had probably practised this cruel rite. Including them in the prohibition was a measure designed to wean them from odious features of their previous religion and thus constituted a sort of negative proselytism. And this policy was insisted on and emphasized by the additional provision: "Whosoever he be of the children of Israel, or of the *ger* that live in Israel, that giveth of his seed to Molech must be put to death; the '*am ha-areş* shall stone him.'<sup>94</sup>

The penalty first denounced, namely, being "cut off from among their people" has been construed by many as a punishment not to be inflicted by man but by Divine action. Such a penalty would scarcely deter those of the *ger* who worshipped Molech and looked upon Israel's God as an intruder upon their god's territory, from continuing their cruel rites. The penalty of death to be executed by human hands was likely to be a more powerful motive for abstention.

That the practice was not rare even among Israelites is shown by the hint conveyed in the text, that the tribunal (the '*am ha-areş*) would be likely to acquit the offender, just as in our modern experience, jurors who are opposed

<sup>88</sup>Ibid. 17.9.

bid. 18.27.

<sup>89</sup>Ibid. 17.10.

<sup>90</sup>Ibid. 18.26.

<sup>91</sup>Lev. 17.12.

<sup>92</sup>Lev. 20.2.

<sup>93</sup>Ibid. 18.21.

to capital punishment refuse to join in verdicts of murder of the first degree punishable by death.<sup>95</sup>

Blaspheming the Name (*shem*) was a crime almost too horrible to contemplate. The presumption apparently was that God Himself would visit condign punishment on the Israelite guilty of such offence. The code, it is true, has an express prohibition of it to the Israelite but it provides no punishment therefor.<sup>96</sup>

In the course of time the question had to be met.

On a certain occasion the son of an Israelite mother and an Egyptian father blasphemed (*wa-yikḥob*) the Name.<sup>97</sup> Divine vengeance did not pursue him and the natural inference was that his exemption was due to the fact that he was not an Israelite. He had however committed a fearful offence for the punishment of which there was no law.

The case was therefore referred to Moses who consulted the Oracle. Whereupon the narrative proceeds:

"And the Lord spoke unto Moses, saying:

"Bring forth him that hath cursed (*ha-meḳallel*) without the camp; and let all that heard him lay their hands upon his head, and let all the Congregation (*kol ha-'edah*) stone him.<sup>98</sup> And thou shalt speak unto the children of Israel, saying, whosoever curseth (*yeḳallel*) his God shall bear his sin (*we-nasa heḥ'o*). And he that blasphemeth (*noḳeb*) the Name of the Lord must be put to death; *kol ha-'edah* shall stone him; as well the *ger* as the *ezrah* when he blasphemeth the Name, must be put to death."

We have here a specific case for which the authorities could find no established law. Consequently, the supreme judicial authority was invoked with the result that the offender was sentenced to death. This tribunal went a

<sup>95</sup>Lev. 20.4, 5.

<sup>96</sup>Exod. 22.27. *Elohim lo teḳallel*.

<sup>97</sup>Lev. 24.10-16.

<sup>98</sup>On the meaning and function of *ha-'Edah* see my *Am ha-Aretz*, Philadelphia, 1910

step further, and on the basis of this decision as a precedent, laid down a general law applicable to future cases just as precedents in English and American law become in effect statutes for the future.

If, as is not impossible, the Egyptian father in this case belonged to the *'ereb rab*, it would indicate that notwithstanding his close association with Israel, and although he had married an Israelite woman, he was still looked upon as in some degree, an outsider. The decision of the tribunal that the *ger* as well as the *ezrah* must suffer death for the crime would indicate a marked advance in the *ezrah's* status, because in this instance, the word doubtless comprehends all Israel.

Whereas, earlier, an Israelite blasphemer of the *shem* was not subject to human punishment, because it was believed that Heaven itself would punish him, this case established the rule that he was to suffer death on the finding of the proper Court.

Notwithstanding this development, the old popular conception persisted. When Job's wife, exasperated by his tame submission to misfortune, hysterically urged him 'to blaspheme God and die'<sup>99</sup> she naïvely uttered the common belief that Divine vengeance would promptly follow the offence.

I had hoped to treat in this lecture of all the instances showing the gradual subjection of the *ger* to laws imposed primarily on Israel, but the time is too short for the purpose and in order not to weary you, we must postpone the rest for the next lecture.

<sup>99</sup>Job 2.9.

## BEN SIRA'S CONCEPTION OF SIN AND ATONEMENT

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FOR the reconstruction of the religious life and thought of the Jews of Judea before the time of Hillel only three books, which were undoubtedly composed in Jerusalem, offer fuller information: the first book of Maccabees, the Psalms of Solomon of Pompey's days, and a century earlier, before the Maccabean rising, the Wisdom of Ben Sira. The first book is, however, purely the history of the military achievements of the Hasmonean priestly family for the defence of the Temple and of Judea; and its sober author found little time and attention for even occasional remarks about the religious life of the teachers and the people, unless it was directly connected with the military events. With the rich and fruitful information yielded by the Psalms of Solomon a special chapter of my essay on the ancient Pious Men has dealt fully. The present inquiry will be devoted to Ben Sira. In his voluminous book he continuously evinces his strong interest in most phases and manifestations of human life and its various temptations, in the divers errors and sins of the several sections of the Jerusalem Jewish community, and in the different forms of sacrificial and spiritual atonement. His instruction consistently aims at the practical realization of a high standard of private and public morality and of true, inward and genuine piety and a religious life. But with all the many warnings, admonitions and practical counsels it is difficult to define and to formulate Ben-Sira's ideas of sin and atonement. In addition to the full com-

mentaries, especially those of Fritzsche, Edersheim and Oesterley, several special essays deal with some aspects of the important problem of the Jewish religion as reflected and expressed in Ben Sira. So the objective and fair investigation of V. Merguet, *Die Glaubens-und Sittenlehre des Buches Jesus Sirach*;<sup>1</sup> J. Koeberle, *Suende und Gnade im religioesen Leben des Volkes Israel*, 1905; and O. Schmitz, *Opferanschauung des spaeteren Judentums*, 1910. Koeberle, on the one hand, tried hard to do justice to the high ethical standard of Ben Sira; on the other hand, he applied his firmly established prejudice against the value of the Jewish religion in general specially to Ben Sira's religious motives, and his religious inwardness, and consistently ignored the most characteristic statements breathing strong religious principles and sentiments, and the religious force of "the fear of God" pervading the whole book, and of the religious "work" produced by a pure, religious motive. The picture, produced by methods of research, in themselves totally unhistorical and incorect, is naturally distorted, and reflects more exactly Koeberle's religion than that of Ben Sira. The present analysis of the not numerous, but important passages in Ben Sira which refer to the transgressions of the habitual sinner and to the occasional lapses of the average, observant Jew, or contain the criticism of wrong actions and the practical advice of our author, will endeavor to arrive at a due appreciation of the religious ideal of Ben Sira, and his conception of sin and atonement.

### I. THE SINNERS AND THEIR ACTIONS.

Sirach addresses himself several times to the pious man, *εὐσεβής*, and once advises his readers or hearers to do good, to give alms to the godly man only (12. 4-7). (4)<sup>2</sup>

<sup>1</sup> I, 1874; II 1901, Programm des koenigl. Friedrichs-Kollegiums zu Koenigsberg Pr.

<sup>2</sup> Translation of the revised Version.

Give to the godly (εὐσεβής), and help not the sinner. (5) Do good to one that is lowly, and give not to an ungodly (ἀσεβής). (6) For the Most High also hateth sinners, and will repay vengeance unto the ungodly. (7) Give to the good man, and help not the sinner (ἀμαρτωλός).<sup>3</sup> Here the good, lowly, godly man is contrasted with the ungodly, the sinner<sup>4</sup>, who appears to have been also proud. Their attitudes in requiting a kind act are also different: while a good man thanks for, and repays himself, or God for him, a kindness, the sinner tries to overmaster the giver by the bread given to him, and pays back by a double measure of evil.<sup>5</sup> Without the necessary consideration of the conditions of the time that suggested such discrimination, Edersheim and others<sup>6</sup> declare the particularistic charity commended here by Sirach a sad contrast to the words in Mat. 5. 42-45 but in full agreement with rabbinic views. The unscientific way of adducing a proof for the latter statement from the first Alphabet of Ben Sira, belonging to the 8th or the 9th century, or from the Midrash without even a reference to the teacher who quoted the Aramaic statement, is not uncommon. The least that could be expected was a reference to earlier rabbinic authorities, and to the way in which the Church realized that academic injunction of Jesus. Dr. Briggs' learned notes on the Didache<sup>7</sup> will here be of interest, and supply the information required. In Didache 1. 5-6 the duty of the relief of the fellow-man's physical need by one's own goods is inculcated, and two warnings are added, one to the recipient as to his responsibility to God, should he take help when not in

<sup>3</sup> See the various designations for the good and the sinner in Edersheim, 17a, note 1.

<sup>4</sup> The same contrast in 13.17: What fellowship shall the wolf have with the lamb? So is the sinner unto the godly.

<sup>5</sup> See also Tobit 4.17 with the commentaries.

<sup>6</sup> Cf. Bousset, *Religion*, 2nd edition, 211.

<sup>7</sup> *Journal of Theolog. Studies*, V, 1905, 585ff; see also C. H. Turner in V1, 1906, 593ff.

want of it; the other to the giver to make sure that he finds a fit recipient. The first warning was elaborated by Hermas; the duty of almsgiving is to him absolute, the giver is to ask no questions, the responsibility lies entirely upon the recipient. The same we find in the Didascalia and the Apostolic Constitutions. But Clement of Alexandria adds: Charity must be practised, but with judgment and towards the worthy persons, in order that we may find a reward from the Most High. The same statement is cited and elaborated by Anastasius, Quaest. 14, who after his illustration from a farmer who sows his seed not into a plain, but into a good soil, quotes as a proof for it our passage in Sira 12.2. There may be added Pseudo-Phokylides, line 152: "Do not good to the bad, it is as though thou wishest to sow into the sea"; and the parallel from Theognis adduced and discussed by Bernays.<sup>8</sup> Sirach's principle seems to have been: to those whom God hates and punishes (39. 25-30; 40. 8, 9; 41. 11), man need not show special kindness. In addition his discrimination was based on the political, social and religious antagonism of the parties in Jerusalem; and in his opinion a man has a right to expect for his kindness thanks and reciprocation, whereas the sinner here not only does not act accordingly, but uses the gift against its giver. So self-protection demands not to offer him assistance. While Sirach's warning then was dictated by a consideration of existing conditions, it, at the same time, shows that the men to whom he addressed it did support the sinners, and had to be restrained from continuing it. Consequently, the character of the Jew concerned was at least satisfactory.

Sirach is addressing a man of means, while the sinners were not all wealthy, but some found themselves either temporarily or permanently in so bad material circum-

\* "Ueber das Phokylideische Gedicht", XIII, *Gesamm. Abhandlungen*, I, 213.



stances as to require the help of neighbors from whom their religious attitude separated them<sup>9</sup>. God's hatred and His punishment suggest very grave sins in the ungodly; but no definite action of a distinctive, punishable character is stated to indicate the nature of their transgression and its grade.<sup>10</sup> The number of sinners seems to have been considerable (7. 16): "Number not thyself among the multitude of sinners: remember that wrath will not tarry. (17) Humble thy soul greatly; for the punishment of the ungodly man is fire and worm".<sup>11</sup> This warning could have hardly been addressed to the godly, as he would not have thought of joining the ranks of sinners; nor was there a need for his humbling himself, as Sirach termed him the lowly, 12. 5. Already here it becomes evident that Sirach addressed some of his admonitions to men of an indifferent religious attitude who were in need of instruction and continuous guidance. And it does not seem to be quite correct that Sirach tended more and more to divide society into two great classes, the godly and the sinner.<sup>12</sup> Against associations with sinners he warned several times, as (12. 14): "Even so (who will pity) him that goeth to a sinner, and is mingled with him in his sins". Evidently some of Sirach's followers to whom those words are addressed were associating with such as he declared to be sinners. The object of his recurring and emphatic reference to the impending visitation by God of the sinners was the separation of the better elements of the population from the company of the ungodly, as otherwise the obedi-

<sup>9</sup> 1.25: But godliness is an abomination to the sinner; cf. 33=36.14.

<sup>10</sup> And the sinner shall heap sin upon sins, 3.27.

<sup>11</sup> The meaning of the last words is rather difficult, as worms after fire give no sense; though, as already Smend noted, it has a parallel in Is. 66.24 where, however, the two words stand in a reverse order. It is true, the Hebrew version has a different wording: *כי תקח אנט רמה*; but all the learned operations of Smend and Peters and their suggestions cannot make that wording even approximately account for the Greek and Syriac versions.

<sup>12</sup> Koeberle, 452, Oesterley, *Ecclesiastius*, in the Cambridge Bible for Schools, XX. XXVI.

ent man will watch and adopt their sinful ways of life.

As some or many of the sinners were wealthy, Sirach's exhortation to his followers sometimes assumes a different form (9. 11): "Envy not the glory of a sinner; for thou knowest not what shall be his overthrow. (12) Delight not in the delights of the ungodly: remember, they shall not go unpunished unto the grave. (11. 21) Marvel not at the works of a sinner, but trust the Lord, and abide in thy labor; for it is an easy thing in the sight of the Lord, swiftly on the sudden to make a poor man rich." As in Ps. 37. 1 ff, Prov. 24. 1; 23. 17, the sinners here were rich, successful and honored, while the godly was often poor and in a humble position. The thought that God is almighty, and may by a sudden change reverse the material circumstances of both parties, should keep down in the mind of the good man marvelling at, and envy of, the rapid success of the rich. He should not think of changing his occupation, farming, against that of the sinner, probably trade, that brought him wealth. And again Sirach warns (10.23): "And it is not fitting to glorify a man that is a sinner." And to the successful man he refers again (41.1), where he states that the thought of death is bitter to one who is enjoying undisturbed his possessions; while it is welcome to the old and needy man, and to one who has lost patience. Sirach reproaches the former for his fear, and reminds him that it is God that decrees his death, therefore he should not refuse to die: years of life matter nothing in the grave. As after this there follows immediatly a statement about the destruction of the sinners, their children and their inheritance (41. 5 ff), it seems that also in v. 1 in the first instance wealthy sinners were meant; and this connection suggests itself naturally, though such juxtaposition often proves nothing in Sirach's book. As in Ps. 26. 5 the assembly of evil-doers, and in 22 17 the congregation of evil-doers, the

sinners here formed, for some definite common object, a similar body (21. 9): "The congregation of the wicked men is as tow wrapped together; and the end of them is a flame of fire. (10) The way of sinners is made smooth with stones; and at the last end thereof is the pit of Hades. (16, 6) In the congregation of sinners shall a fire be kindled, and in a disobedient nation wrath is kindled." The religious attitude common to them, and the common outlook on life drew them together (41. 5): "The children of sinners are abominable children, and they frequent the dwellings of the ungodly. (8) Woe unto you, ungodly men, which have forsaken the law of the Most High God! (9) If ye be born, ye shall be born to a curse; if ye die, a curse shall be your portion... (10) So the ungodly shall go from a curse to perdition. (11)... but the name of sinners being evil shall be blotted out." Smend<sup>13</sup> refers v. 8 to apostates, *abtruennige*; but the continuation clearly shows that the same sinners were meant as were termed ungodly and, as in other passages to be quoted presently, did not keep the commandments. Their sinful lives continue in those of their children; and God brings it about that the father's unrightful possessions are lost in the next generation. The unexpected change in their material circumstances set the sinful children thinking, especially as they, even when they turn out God-fearing, have in addition to bear the reproaches of their fellowmen for the sins of their father. The punishment of such sinners themselves is God's curse that pursues them throughout life; and, as in the Psalms and the book of Job, after death their memory will perish from among men.

Which of the important laws of the Torah they failed to observe is not even indicated. Once we find them judging together (11.9): "Strive not in a matter that

<sup>13</sup> *Die Weisheit des Jesus Sirach*, 1906, v. 382.

concerneth thee not; and where sinners judge, sit not thou with them". This does not seem to refer to an established court of law with judges acting regularly, as Sirach's follower who is admonished here may or may not, according to his liking, join the court. With the dispute itself he has no concern, it appears to have been submitted for decision to a number of citizens, as in Ruth 4. 1 ff, who sat down and formed a court to hear the case. When invited to be one of them, the righteous man should not join sinners, in order to avoid their company and their unjust judging. The same advice is again stressed by Sirach in a passage where he strongly contrasts the qualities and virtues characteristic of pious men (37.11): "Give not heed to these in a matter of counsel. (12) But rather be continually with a godly man, whom thou shalt have known to be a keeper of the commandments, who in his soul is as thine own soul, and who will grieve with thee, if thou shalt miscarry". Not only do the pious observe the law, but they have understanding and sympathy for each other's disappointments. On the other hand, the sinner is said to hate the law (33=36.2): "A wise man will not hate the law; but he that is a hypocrite therein is as a ship in a storm. (3) A man of understanding will put his trust in the law; and the law is faithful unto him, as when one asketh at the oracle!" Those who do not keep the commandments are the ungodly, as also the contrast in 21. 10,11 clearly shows; with them the observant man should not consult. On the other hand, those who keep the commandments not only associate with one another, but when in some contingencies of life they are uncertain and hesitating, they consult the Torah and find in it advice for the right action. From the sinner some definite danger is stated to proceed for the good man (11.33): "Take heed of an evil-doer, *πονηρός*, for he contriveth wicked things; lest haply he bring upon

thee blame for ever". It was scheming of some kind which the unsafe political conditions of the time were apt to produce (28,9): "And a man that is a sinner will trouble friends, and will make debate among them that be at peace. (2.12) Woe unto the sinner that goeth two ways.<sup>14</sup> (5,9) Thus doeth the sinner that hath a double tongue. (6.1) Even so shall the sinner (inherit shame and reproach) that hath a double tongue. (23.8) The sinner shall be overtaken in his lips; and the reviler and the proud man shall stumble therein. (11.32) And a sinful man lieth in wait for blood".<sup>15</sup> All these accusations suggest that the sinner was deliberately stirring up strife between neighbors and friends, or his political denunciations and slanders endangered the lives of men who unlike him observed the law.

The difficulty of defining the extent of the failure of the sinners to carry out the commandments is due to Sirach's attitude towards them throughout his book. Though he frequently blames the ungodly for their sinful actions and their disobedience to God, he, apart from 41.8,9; 5.4ff, nowhere addresses them directly, nor devotes a separate paragraph of any importance to them. The simple reason is that his numerous exhortations, warnings and counsels were either orally or in writing exclusively addressed to his followers and disciples. It is true, these were standing and walking in the way of the commandments of the Torah; but as they were in various respects not perfect, and did not come up to Sirach's high moral standard, they were in need of instruction and guidance. The section of Jerusalem's population with whom he continually contrasts the sinners was neither pious nor even observing the law strictly. As Sirach's references to them indicate, they believed in God as the creator of the universe and its ruler, and in His pro-

<sup>14</sup> Cf. Prov. 28.6, 18.

<sup>15</sup> Cf. Ps. 10.8; 17.8ff.

vidence as extending not only to nations, but to every individual being. They regarded the Torah to be the expression of His will, and, on the whole, followed its commandments and its prohibitions. It should in this connection be carefully noted that throughout his extensive instruction Sirach exclusively deals with the part of the law that regulates the relations in their daily intercourse between man and his fellow, and not one single statement in the whole book even touches on the observance of the Sabbath and the festivals, of clean and unclean foods, of levitical purity and impurity, of marriage and divorce, of idolatry and superstition, nor on non-Jews or heathen customs, on the conduct in the Temple and the handling of holy things, on the sanctity of the priests and their holiness, etc. Conduct and practice in all their aspects in health and illness, in the home towards all its members, in the association with friends, strangers and enemies, towards the poor and the priest, in business and at social functions formed his subjects. And as daily life compasses the cultured and the uncultured, and is not always particular in producing situations delicate and indelicate, the laying bare of the realities of life is in Sirach sometimes crude, the description rough and rude, and the remedial advice occasionally lacking delicacy. As in all places and all ages, some of Sirach's followers took liberties in their practice of the Torah by extending for themselves the boundaries within which they were prepared to keep the ethical and social commandments; and they allowed themselves some latitude in their business dealing, in their private morality, and in their treatment of the poor and the weak. In addition, the section of the population, which was materially successful, but morally unscrupulous either partly or totally, as that described in the Psalms and in the book of Jeremiah, by its wealth, position and influence shook, the

belief of some men who were not firmly and inwardly religious. Again, the light talk of some Jews who had heard of Greek philosophy as the most perfect wisdom and the most trustworthy guide to a blameless and good life, and the gradual infiltration of a loose Greek morality and its attractive features began to undermine the foundations of Jewish family life and of the Jewish social virtues. All that necessitated an emphatic restatement of the teachings of the Torah as the highest wisdom revealed by God Himself, of the high standard of Jewish morality and purity and of truthfulness and an energetic and detailed reproof of the violation of the honor due to father and mother; and a stressed inculcation of the importance of submission to God in calamity, and of other essential religious and moral truths to be realized in daily life.

Sirach's instruction is not religious in the ordinary sense, nor does he inculcate purely religious sentiment; but he teaches practical wisdom and the moral duties imposed by it. These he set forth in words seemingly dry and cold and addressed in the first instance to the law-abiding citizens of Jerusalem. He reminded them of their higher obligations to support the poor in a truly charitable manner, to help the needy, the weak and the priest, to defend the helpless in the assembly of the people, to work, to deal honestly, to forgive wrongs, to remember man's dependence on God for his life and His forgiveness, to pray and to repent. Only rarely does Sirach turn to poor followers of his; and even these, like some of the sinners, seem to have lost their possessions suddenly. To the sinners of the wealthy class he refers only in order to instruct his law-abiding adherents, and to deter the latter from following their example by his holding up to them the fate of the unrepentant offenders. It is therefore unfounded, when

Dr. Bernard<sup>16</sup> says: "Turning from sin (8.5) is only the repentance of the righteous, and with the exception of 17,25 ff, the attitude of Sirach prefigures the attitude towards sinners which it was the great work of Jesus to challenge and set aside by his example Lk. 15.2. Yet Sirach denies the sinners the excuse that they cannot help themselves. It is not God who causes man to sin". Certainly the first sweeping statement is most strongly contradicted by Sirach himself (5.7): "Make no tarrying to turn to the Lord; and put not off from day to day: for suddenly shall the wrath of the Lord come forth; and thou shalt perish in the time of vengeance." The whole paragraph deals with the habitual sinner who may any day be overtaken by condign punishment; there is only one thing that can save him: repentance, and to that effective remedy, open to him and to all, Sirach emphatically urges him on. Similar is the context in the passage wrongly termed by Dr. Bernard an exception (17.23): "Afterwards He will rise up and recompense them, and render their recompense upon their head. (24) Howbeit unto them that repent He granteth a return; and He comforteth them that are losing patience." Here the sinner's repentance not only wards off the punishment impending and fully deserved, but even obtains for him God's favor, and he is received back; deterrent suffering on the one hand, the inviting hope of a God-granted return on the other are held up by Sirach to urge the sinner to repentance.<sup>17</sup> Such were the two forceful warnings to the habitual offender to whom otherwise only incidental references are assigned, a fact not realized by Dr. Bernard.

As has been recognized by the commentators, Sirach was a genuinely religious man, and his meditations and his instruction were undoubtedly religious. Through

<sup>16</sup> Hastings, *Dictionary of the Bible*, IV, 531.

<sup>17</sup> Cf. 18.13: But the mercy of the Lord is upon all flesh; reproof and chastening and teaching, and bringing again, as a shepherd does his flock.



all of them he continually reminded his disciples of God's omnipotence and man's insignificance; He created the universe and man, and His great works cannot even be enumerated by him 18.5-7; He gave him understanding and the law, 17.1 ff; 39.6, also grace and wisdom 37.21, and some men He exalted above the rest 33=36 11,12. He is father and God of man's life 23.1,4, protects him from danger 34=31.14-17, from Him comes healing 38.2, He creates the physician and the medicines 38.1,4. He humbles and exalts 7.11, and directs man's ways in truth 37.15; He is eternal, while man's life is short 18.1,9,10, therefore He is long-suffering and merciful, and forgives 18.11-13, His forgiveness is great 17. 24;16. 11, as also His mercy 18. 13; 16.14. Good and evil, life and death, poverty and wealth, and even some dreams come from Him 11. 14; 34=31. 6; mercy and wrath are with Him, He is mighty to forgive, and He poureth out wrath 16.11. He sees all doings of man 39.19 ff; 23.19; 16.14, He corrects 16.12, reproves and chastens, and brings the sinner back 18.13; and all that He expects is that man accept His chastening and study His judgments 18.14, submit to His discipline, and seek the law 32=35. 14. The God-fearing man justifies His punishment, the sinner interprets it according to his will 32. 16,17. God judges man according to his deeds, and requires of him the observance of His commandments, the fear and love of Him, and trust in Him, and that he shall in all emergencies of life seek His guidance;<sup>18</sup> not to do His will is folly and wickedness, and pride is hateful to Him 10.7.

Sirach had an optimistic view of the world and of its management by God; and he stated this his conviction in a meditation rich in religious thought (39.16): "All the works of the Lord are exceeding good, and every command shall be (accomplished) in His season. (17) None can say, What

<sup>18</sup> See Smend, *Die Weisheit des Jesus Sirach*, XXV; Oesterley, *XVIII Hft.*, Box-Oesterley in Charles, *Apocrypha*, 308ff.

is this? wherefore is that? For in His season they shall all be sought out. At His word the waters stood as a heap, and the receptacles of waters are the word of His mouth. (18) At His command is all His good pleasure (done); and there is none that shall hinder His salvation. (19) The works of all flesh are before Him; and it is not possible to be hid from His eyes. (20) He beholdeth from everlasting to everlasting; and there is nothing wonderful before Him. (21) None can say, What is this? wherefore is that? For all things are created for their uses." The first line states that all that God created is not only good, but exceedingly good. But the wording of the second line of the same verse which seems to be parallel in thought with the first suggests that the perfectness of the world means the usefulness of every part of it in God's hand. For the world presents to the watching, and even more to the critical mind, many a riddle; and as there is to be noticed much that is harmful on earth, we often question the purpose of this or that thing created by God. Sirach's answer is that even such things as appear to be useless and even noxious have a definite object that is manifested in its appointed time. For God has the power to do great things in nature, like the standing up of the waters of the Red Sea as a help to Israel, or, according to some commentators, at the creation, before, or when, the waters were separated. And thus some good things, like food and drinks, exist to serve as rewards for the righteous, while the evil things are used by God as means for the punishment of the wicked. God employs the forces of all parts of nature all of which obey his orders in both directions according to the deeds of man which are fully known to Him. These ways of God are understood by the righteous, while they remain a confusing riddle to the sinner.<sup>19</sup>

<sup>19</sup> 39.22-31, cf. 42.15-23ff.

Sirach continues (39.33): "All the works of the Lord are good: and He will supply every need in its season. (34) And none can say, This is worse than that: for they shall all be well approved in their season. (35) And now with all your heart and mouth sing ye praises, and bless the name of the Lord." At the conclusion of his argument Sirach restates his conviction that everything is good and useful in its season; therefore every man should praise God from a full heart. It seems that Sirach had to meet a pessimistic view of the world and a criticism of God's work that emanated from some Jews; but his general statement does not enable us to establish as to whether they were due to Hellenistic influence or not. Of man's life, on the other hand, Sirach held a rather pessimistic view (40.1): "Great travail is created for every man, and a heavy yoke is upon the sons of Adam, from the day of their coming forth from their mother's womb, until the day for their burial in the mother of all things. (2) The expectation of things to come, and the day of death (trouble) their thoughts, and (cause) fear of heart; (3) from him that sitteth on a throne of glory, even unto him that is humbled in earth and ashes; (4) from him that weareth purple and a crown, even unto him that is clothed with a hempen frock. (5) Wrath, and jealousy, and trouble, and disquiet, and fear of death, and anger, and strife; and in the time of rest upon his bed his night sleep doth change his knowledge... (8) It is thus with all flesh, from man to beast, and upon sinners sevenfold more." This austere meditation continues to v. 11 where a fitting general observation constitutes a suitable conclusion. Sirach's object, as the unexpected reference to the sinners in v. 8 suggests, seems to have been to account for the suffering of the righteous: it comes upon everybody without exception; but, with all that, there is a very marked difference between the visitations of the

righteous and those of the sinner, inasmuch as the latter are sevenfold. Sirach found the idea in the Psalms and in the book of Job; it is forcible in itself, but hardly sufficient to allay the mental pains of the righteous.

## II. SIN AND GOD'S RESPONSIBILITY.

While offending against God's will, the sinner believed that He did not see him; and as on account of that no thought of Him was present in the mind of the transgressor to make him even for one moment hesitate in his action, he felt no restraint of any kind (23.18): "A man that goeth astray from his own bed, saying in his heart, Who seeth me? Darkness is round about me, and the walls hide me, and no man seeth me; of whom am I afraid? The Most High will not remember my sins; (19) and the eyes of men are his terror, and he knoweth not that the eyes of the Lord are ten thousand times brighter than the sun, beholding all the ways of men, and looking into secret places." This man is conscious that his action constitutes a sin against man and God, and that he deserves to be punished for it; but he is confident that he can escape the revenging arms of both. It is strange that Sirach stressed so much the conviction that God sees even the most secret deed, while in the thought of the sinner there is no reference to the subject at all, and God is perhaps only implied in his question: Of whom am I afraid? On the other hand, the offender said that God will not *remember* his sins, meaning thereby that He will not punish him; this, however, implies that he admitted to himself that God did see the grave offence committed by Him. Unless the Hebrew used here a word that in addition to remembering implied "taking notice of", or a whole line of the original text was lost in the translation, the difficulty just stated remains. Now Sirach dealt with the same problem again (16.17):

"Say not thou, I shall be hidden from the Lord; and who shall remember me from on high? I shall not be known among so many people; for what is my soul in a boundless creation?" It seems, Sirach was referring to God's attention paid not at the moment, when the sin was committed, but later, when He remembered it in order to call the sinner to account. But to fix the exact point of time in the life of the sinner, when that will take place, is not at all easy or certain. If Sirach's own words did mention the offender's soul,<sup>20</sup> this might suggest that the reckoning was to be held after the offender's death, when, along with his, a thousand other souls are to be judged, and when he hopes to escape in the multitude the attention of the judge. If this is the correct interpretation, the sinner believed firstly in the survival of his soul, at least till the time of its trial and punishment,<sup>21</sup> and secondly, in the future call to account of his soul for his actions on earth; only of God's memory he had a rather low opinion, dictated partly by his too sure hope of escape. Sirach's argument against such erroneous security refers only to the second statement of the offender (18): "Behold, the heaven and the heaven of heavens, the deep and the earth shall be moved, when He shall visit. (19) The mountainins and the foundations of the earth together are shaken with trembling, when He looketh upon them. (20) And no heart shall think upon these things: and who shall conceive His ways? (21) And there is a tempest which no man shall see; yea, the more part of his works are hid." God does punish; but, as all His ways are unfathomable for the human mind, because most of His doings are hidden from man, His punishments cannot be grasped. But it is foolish to think that God does not punish every sinner.

<sup>20</sup> See Edersheim's note.

<sup>21</sup> See Merguet, I.17.

The uncertainty of the details of the very interesting passage is due to the difficult and uncertain wording of the Greek translation.<sup>22</sup> The Hebrew is here of little help; it takes v. 20-22 as spoken by the sinner:<sup>23</sup>(20) **גַּם עָלַי לֹא אִם חָטָאתִי לֹא תִרְאֵנִי עֵין אוֹ אִם** (21) **יִשִּׁים לֵב וּבִדְרָכֵי מִי יִתְּבוֹן מַעֲשֵׂה צַדִּיק מִי יִגִּידֵנוּ וְחַקּוֹת מֶה כִּי יִרְחַק** (22) **אֲכֹז בְּכָל סֹתֵר מִי יוֹדֵעַ חֹק**. It is true, this reads more plain than the Greek, though it is not altogether intelligible; but it is difficult to see, how the Greek translator could have to such an extent misunderstood the fairly plain words. For he read or actually had in v. 20 **עָלֵיהֶם** for **עָלַי**, and **וּבִדְרָכֵיהֶם** for **וּבִדְרָכֵי**, which could be somehow explained; but in v. 21, apart from the unsuitability of **אֲכֹז** in the context which demands deeds and not words, even the mere words which might cover even partly the Greek cannot be distinguished. Nor does **בְּכָל סֹתֵר** yield any sense, while the Greek presupposes **וּרְבַּ מַּעֲשֵׂיו בְּסֹתֵר** of which only the last word appears in the Hebrew. And how could **אִם חָטָאתִי לֹא תִרְאֵנִי עֵין** possibly account for *καὶ καταγίγῃς ἡ αὐτὴ ὥσπερ αἰθρῶπος*? With creditable ingenuity Dr. Peters<sup>24</sup> comes to the rescue of the Hebrew by suggesting for **חָטָאתִי** as the verb in the original **רָשַׁעְתִּי** which the translator misread as **שַׁעֲרָה**! And **כִּי אֲצֹק חֹק** in the manuscript, which is admitted to be unintelligible is emended, according to the Greek and Micah 7.11, to **קִרְחַק חֹק**! All these impossible Hebrew phrases and the strange divergences from the Greek combine to suggest that not only was the Greek translation not based on the existing Hebrew text, but that the latter represents a translation into biblical phrases of some translation of the original.

Not contented with his self-assurance that God does not see his sinful deed, the sinner exonerates himself from his

<sup>22</sup> See the commentaries.

<sup>23</sup> See Box-Osterley.

<sup>24</sup> *Das Buch Jesus Sirach*, 1913, 139.

responsibility altogether (15. 11): "Say not thou, It is through the Lord that I fell away; for thou shalt not do the things that He hateth.<sup>25</sup> (12) Say not thou, It is He that caused me to err; for He hath no need of a sinful man. (13) The Lord hateth every abomination; and they that fear Him love it not. (14) He Himself made man from the beginning, and left him in the hand of his own counsel. (15) If thou wilt, thou shalt keep the commandments; and to perform faithfulness is of (thine own) good pleasure... (20) He hath not commanded any man to be ungodly; and He hath not given any man license to sin." When made conscious of his misdeed the offender did not deny it nor, as it seems, did he express regret or repentance, as he firmly believed that his wrong action was due not to his own moral lapse or weakness, but to God Himself. When he offended against God's law, it was not the dictate of his own free will, but it arose through God. The contrast in v. 11 moreover suggests as the further view of the sinner that God for some unnamed purpose *likes* man to sin and even makes the necessary arrangement to lead man to sin. But, as he does not appear to see the contradiction between God's prohibition of an action and His advancement of its transgression, Sirach points out that, as God hates the sinful deed itself, He does not want it to happen, nor does He want sinful men; evidence of it is the fact that those who fear God and obey His will also hate sin, consequently it cannot be for God a desirable thing. And if v. 20 directly combats the view of the arguing offender, he asserted that God even commanded man to sin; while in truth He not only did not order it, but did not even permit it. What theory of sin those strange views represented is very dif-

<sup>25</sup> Hebrew has: "For that which He hateth made He not;" according to the commentators it was misunderstood by the Greek translator, see Box-Oesterley.

ficult to say. It is true, II Sam. 24, 1; I Chron. 21.1<sup>26</sup> ascribe David's sin to the causation of God Himself; and, in spite of the punishment immediately decreed and also inflicted by Him for that offence, scholars are inclined to infer from the account that its writer regarded God as the instigator of sin.<sup>27</sup> Graetz remarks on the passage in Sirach:<sup>28</sup> "These sentences constitute a strong protest of Judaism against the false wisdom, or, as we are now justified in describing it, against Greek philosophy. Epicurism that yielded most to the human inclinations, and undermining scepticism had penetrated from the central seat of Greek philosophy to Alexandria, and there caused in the tired minds great mischief. From Alexandria this so-called world wisdom was brought also to Jerusalem; here it proceeded to dissolve the law, and formulated itself in the teaching: God implanted in the human heart tendencies and inclinations. If these incite man to sin or transgression, it is in reality God who instigated him to it."<sup>29</sup> This is the language of crude Epicurean Eudaemonism which, at the same time, denies the moral determination of man, and makes of him a slave of his inclinations. It is the language of the corrupt Hellenists who used Greek wisdom as a screen of their looseness and of their sinful lusts."<sup>30</sup> This explanation of Graetz may be correct; but even Epicurism, or the implantation of the evil bent in man by God, does not account for the teaching,

<sup>26</sup> Experiencing all things, that is committing all kinds of shameful deeds without scruple. See Pfeleiderer, *Primitive Christianity*, III, 1901, 135ff.

<sup>27</sup> Clemen, *Lehre von der Sünde* 123ff., Hastings, DB, IV, 530b. Prof. C. Taylor in *Journal of Theolog. Studies*, VII, 1906, 558 on Log. 42: "To those who thought that God tempts, as the Scriptures say, quoth He, the evil one is the Tempter".

<sup>28</sup> *MGWJ*, 21, 1872, 105.

<sup>29</sup> The same we find in the commentaries, see Bonset, *Religion*, 2nd edition, 463; similarly with the later libertine Gnostics who taught that evil was not a free act of man, but was due to the influence of his inborn nature, and that there was no other way to salvation but that of experiencing all things, that is committing all kinds of shameful deeds without scruple. See Pfeleiderer, *Primitive Christianity*, III, 1910, 135ff.

<sup>30</sup> Philo, *De profugis* 16, M. 1. 558, says that those who blaspheme against the Divine, and ascribe to God rather than to themselves the origin of their evil can obtain no pardon. See Abrahams, *Studies in Pharisaism*, 1, 1917, 142.



combated by Sirach, that God ordered man to sin, and likes him to sin. That presupposes some other school of thought about the origin of sin.

On the other hand, Sirach emphasized that, when God made man from the beginning, He left him in the hand of his own counsel, *διαβούλιον*. As Dr. Charles points out,<sup>31</sup> that Greek word is used among others in the *Testaments* as the rendering of the biblical *יצר*, inclination. Consequently God does not influence man, nor had He anything to do with the sin even of the first man, as He had left him to his own way of thinking. As Sirach did not avail himself of this most appropriate occasion to state definitely that God did not create man's inclination, it cannot be admitted without further evidence that his opponents held that God created the evil bent and implanted it in man, and thereby not only permitted, but even ordered him to sin. As, on the other hand, Sirach in v. 15-17 most strongly emphasizes the free will of man, the view opposed by him seems to have been a determinism of a very marked degree. The same opinion is combated in Enoch 98. 4: "I have sworn unto you, ye sinners,... even so sin has not been sent upon the earth, but man of himself has created it;" and 69. 11: "For man was created exactly like the angels to the intent that he should continue righteous and pure, and death which destroys everything could not have taken hold of him."<sup>32</sup> The author of that part of the book of Enoch opposed a Hellenistic doctrine similar to that fought by Sirach that sin was sent by God in the way of man, and that he was created with the evil inclination; while Sirach also insists that there is nothing in man to prevent him from keeping God's commandments. It is true, Sirach has (21. 27): "When the ungodly curseth Satan, he curseth his own soul. (28) A whisperer defileth

<sup>31</sup> *Testaments of the XII Patriarchs*, 162.

<sup>32</sup> Oesterley, LXIII.

his own soul, and shall be hated wheresoever he sojourned," and apparently presupposes Satan in man. Judging by the Jewish-Palestinian literature of the first and second centuries, we may take it for granted that, in spite of I Chron. 21. 1, neither Sirach nor his contemporaries believed in Satan as a seducer to sin. As Dr. Ryssel<sup>33</sup> remarks, it was the view of the Greek translator, though even that is doubtful, but not Sirach's. Now the root שטן never means: seduce, but is everywhere synonymous with שונא, *hate*, Ps. 38. 21; 71. 13; 109. 20, exactly the same as שטם, Gen. 27. 41 and elsewhere. Accordingly, if the original read מקלל נפשו שטמו מקלל נפשו, it meant: he who curses his enemy openly, curses his own life; but he who whispers evil about his neighbour defiles himself, and is hated.<sup>34</sup>

In this connection yet another passage has to be considered, as according to Dr. Oesterley<sup>35</sup> Sirach here came perilously near to an acknowledgment of the very doctrine which he combats in 15. 11-20. It reads (33=36. 10-20): "And all men are from the ground, and Adam was created of earth. (11) In the abundance of His knowledge the Lord distinguished them, and made their ways various: (12) Some of them He blessed and exalted, and some of them He hallowed and brought nigh to Himself: some of them He cursed and brought low, and overthrew them from their place. (13) As the clay of the potter in his hand, all his ways are according to his good pleasure; so men are in the hand of Him that made them, to render unto them according to His judgement. (14) Good is set over against evil, and life over against death: so is the sinner over against the godly. (15) And thus look upon all the works of the Most High; two and two, one against another." In the world we see godly men and sinners,

<sup>33</sup> In Kautzsch, *Apokryphen und Pseudepigraphen*, I, 340.

<sup>34</sup> Consequently there is no foundation for Oesterley's theories, p. LXII.

<sup>35</sup> p. LX.

the first are blessed with a long life, while the days of the latter are cut short; how shall we account for the two groups of facts? There are several more such pairs noticeable in daily life that puzzle the mind, and the strange fact in all of them is unreservedly admitted by Sirach in v. 14. It is all due to God's judgment who renders to men, as He sees fit, and Sirach illustrates it by several instances of the overthrow of some individuals and peoples in biblical history. V.12cd suggests that he is referring to the Canaanites who were driven out from Palestine, and to their ancestor Canaan who was cursed by Noah and declared a slave by him, which was approved and realized by God. It is true that such degradation was entirely due to Canaan's deed and his general character, and not to God's choice; Sirach, however, did not consider that in his argument, but only God's apparently arbitrary humiliation. At what stage of their existence God dealt with the peoples and the individuals in the way stated, is clear from the statement (12d): "And overthrew them from their place"; they had been living in their respective positions for some time, before He removed them. And so also the words (12c): "some of them He cursed and brought low," clearly state that those whom He cursed and reduced had before held their high station undisturbed. The contrast (12): "some of them He blessed and exalted, and some of them He hallowed, and brought nigh to Himself," fully bears out that interpretation. It seems that Sirach is not referring here to Aaron's choice as priest, but compares on the basis of Ex. 19. 4-6 the respective relations of Israel and the Canaanites with God: though all human beings are descended from Adam, God in His wisdom and knowledge distinguished Israel among the nations Ex.19.5, and made, in His choice and judgment, its ways different from those of all other peoples, Lev. 20.26. There is no

trace here of the assumed idea that God moulds the character of all or some individuals from their beginning, so that He would be responsible for their actions. Even the comparison with the potter and his clay which is taken from Jer. 18.6ff has nothing to do with the faculties of man and his inclinations, but refers, as in the original place, to God's retribution for sins according to His own judgment. And in the same sense also v. 14 has to be understood as a generalization of the principle enunciated in the preceding instances of God's ways or works towards mankind: Israel obeys the will of God, his neighbors, especially Syria, practise evil; Israel is rewarded by life, the sinful peoples are punished by death. And as those nations represent the two opposite attitudes towards God, so do within Israel the Hellenists and the godly men whose respective fortunes correspond by God's judgment with their respective actions: (15) "And thus look upon all the *works* of the Most High; two and two, one against another". It appears that some Jews in Jerusalem, influenced by the teachings of the Stoics, pleaded for the equality of all nations and all individuals in the sight of God; Sirach's answer was that He in His judgment distinguished Israel among all nations, not arbitrarily, but in the abundance of His knowledge that enabled Him to weigh the merits of all justly, and to set back the people that inclined towards sin.

Difficult, however, is another statement which deals with the various degrees of wisdom granted by God to different men (1.9): "He created her (wisdom), and saw, and numbered her, and poured her out upon all His works. (10) She is with all flesh according to His gift; and He gave her freely to them that love Him". And again (43.33): "For the Lord made all things; and to the godly gave He wisdom". In comparing the two passages we recognize

that those who love God are identical with the godly who receive from God wisdom, while other, average Jews who do not merit it by their conduct are not distinguished by that gift of wisdom; and it is evident that there is not the slightest foundation for the assumption that v. 10a refers to the Gentiles and 10b to the Jews<sup>36</sup>. The identity of those who love God is also proved by another passage (2.15): "They that fear the Lord will not disobey His words; and they that love Him will keep His ways". The parallelism establishes the identity of those who love Him with those who fear Him; but it is at first sight not certain whether the attachment of the former to God is not thought to be stronger than that of those who fear Him. The passage continues (2.16); "They that fear the Lord will seek His good pleasure; and they that love Him shall be filled with the law." It seems again that the latter possess a higher degree of perfection than the former. The same seems also to follow from 34. 15 (=31. 17): "Blessed is the soul of him that feareth the Lord: to whom doth he give heed? and who is his stay? (16) The eyes of the Lord are upon them that love Him, a mighty protection and a strong stay, a cover from the hot blast, and a cover from the noonday, a guard from stumbling, and a succour from falling. (17) He raiseth up the soul, and enlighteneth the eyes: He giveth healing, life, and blessing." In Job 28.28<sup>37</sup> the fear of the Lord which, as will be seen presently, Sirach took over completely, is parallel with departing from evil, and means the abstention from a transgression of some prohibitions of definite contents. On that connotation of the fear of God is based 1.28:

<sup>36</sup> In 47.22: "But the Lord will never forsake His mercy: and He will not destroy any of His works, nor blot out the posterity of His elect; and the seed of him that loved Him He will not take away; and He gave a remnant unto Jacob, and unto David a root out of Him," the elect is David, and he who loved Him is Abraham. Is. 41.8.

<sup>37</sup> יראת ה' היא חכמה וסוד מרע בינה.

"Disobey not the fear of the Lord", for it is presupposed to be identical with certain commandments to be obeyed, as it is synonymous with the Torah in Ps. 19. 10. In the contrast in 19. 24: "Better is one that hath small understanding, and feareth, than one that hath prudence, and transgresseth the law", it is expressly stated that the fear of God meant refraining from transgressing the law. Again in 1.30: "Because thou (hypocrite) camest not unto the fear of the Lord, and thy heart was full of deceit," it prohibits dishonesty of the mind. And in the context of 27.3: "Unless a man hold on diligently in the fear of the Lord, his house shall soon be overthrown," it forbids dishonest dealings.<sup>38</sup> In the lesson derived from the end of an adulteress who is stated to have been disobedient in the law of God (23.23), that is, she transgressed the prohibition in the Decalogue, Sirach says (23.27): "And they that are left behind shall know that there is nothing better than the fear of the Lord, and nothing sweeter than to take heed unto the commandments of the Lord". In the first part he points to obedience to the prohibition mentioned, and in the second probably to the relevant positive commandments<sup>39</sup>. And in the passage (2.15) from which this examination issued: "They that fear the Lord will not disobey His words; and they that love Him will keep His ways," the first line suggests obedience to the prohibitions of God, while in the second His positive ways clearly point to actions ordered, to positive commandments; and at the same time we learn that the love of God is superior to the fear of Him.

As the fear of God constitutes such a great treasure,

<sup>38</sup> Cf. Ps. 34.12; יראת ה' אלמדכם נצר לשונך מרע ושפתיו מדבר מרמה; סור מרע ועשה טוב בקש שלום וירפהו; here the fear of the Lord keeps man away from evil deeds and the false tongue, and characteristically סור מרע is used as in Job 28.28.

<sup>39</sup> Cf. Ps. 112.1: Happy is the man that feareth the Lord, that delighteth greatly in His commandments.

it is obvious that its acquisition is a personal merit of its possessor which accounts for the rewards granted for it by God. They are described in vivid colors (1.13): "Whoso feareth the Lord, it shall go well with Him at the last, and in the day of his death he shall be blessed. (40.26) Riches and strength<sup>40</sup> will lift up the heart; and the fear of the Lord is above both: there is nothing wanting in the fear of the Lord, and there is no need to seek help therein. (27) The fear of the Lord is as a garden of blessing, and covereth a man above all glory<sup>41</sup>. (25.11) The fear of the Lord passeth all things: and he that holdeth it, to whom shall he be likened? (6) Much experience is the crown of old men; and their glorying is the fear of the Lord. (34.13=31.14) The spirit of those that fear the Lord shall live; for their hope is upon Him that saveth them. (14) Whoso feareth the Lord shall not be afraid, and shall not play the coward; for He is his hope. (15) Blessed is the soul of him that feareth the Lord: to whom does he give heed? and who is his stay? (26,3) A good wife is a good portion: she shall be given in the portion of such as fear the Lord. (32=35.14) He that feareth the Lord will receive His discipline; and they that seek Him early shall find favour. (15) He that seeketh the law shall be filled therewith: but the hypocrite shall stumble thereat. (16) They that fear the Lord shall find judgement, and shall kindle righteous acts as a light." It is the same thought as is expressed more fully in 2. 7-11 as a warning to the God-fearing to trust in God, while suffering, and to submit in humility to His trials (2. 17,18). The original perhaps read יקח מוסר ומשחריו ימצאו חן, while the Hebrew text has דורש אל יקח מוסר ומשחרהו ישינו מענה. The commentators

<sup>40</sup> עשר וחיל.

<sup>41</sup> על כל כבוד חפה Is. 4.5; in 34.16=31.19: "The eyes of the Lord are upon them that love Him, a mighty protection" the same is promised in a higher degree to those who love God.

of the latter suggest that the Greek translator mistook שָׁחַר for a derivative of שָׁחַר. The Syriac has: "He that seeketh the service of God will receive instruction, and when he prayeth before Him, He will answer him"; it evidently presupposes וּמִשְׁחָרוּ יֵעֲנֶה as the original Hebrew wording. It is difficult to see, how the Greek and the Syriac could be the renderings of the Hebrew text preserved. As in addition מַעֲנֶה יֵשִׁי is not Hebrew, it seems to me fairly obvious that the Hebrew is the translation of some earlier translation. Again, Hebrew presents the curious fact that it has been preserved in three different versions, or, if we count the marginal variants, even in four or five wordings. One reads דּוֹרֵשׁ אֶל יְקוֹה רִצּוֹן וּמִתְלַהֵלָה יוֹקֵשׁ, another דּוֹרֵשׁ חֲפְצֵי אֵל יִקַּח לֶקַח וַיַּעֲנֶהוּ בַתְּפִלָּתוֹ בּוֹ, and both are evidently the several translations of one and the same translation; and all that would be necessary is to trace the latter source. How מִתְלַהֵלָה should have meant in Hebrew a hypocrite, is certainly a riddle; but if we remember that in Gen. rab. 53. 11<sup>42</sup> R. Levi applies Prov. 26. 18, containing that rare word, to Ishmael who is alleged to have shot arrows at Isaac, and pretended to play, we shall understand, how the rabbinic retranslator hit on that word in that meaning. In v. 16c Syriac has: "shall produce much wisdom from their heart"; while Hebrew reads יוֹצִיא יֵבִין מִשְׁפָּט וּתְחַבּוּלוֹת מִנֶּשֶׁף יוֹצִיא, where, as the commentators already noted, the last two words should read מִנֶּפֶשׁ יוֹצִיא. Greek presupposes יֵאִירוּ כְּאוֹר, and there is no occasion for the various artificial suggestions advanced. Sirach taught in those verses that only, if he is able to resolve to fear God either by arousing, maintaining and developing through will and determination that moral force, or by training his mind in that attitude by resolutely refraining from transgressing the law, will

<sup>42</sup> Bacher, *Pal. Amoraeer*, II, 344.



a man obtain God's blessing and His protection.

After this digression let us revert to 1. 10: "She (wisdom) is with all flesh according to His gift; and He gave her freely to them that love Him", where it is difficult to understand moral responsibility in man. And it is even more so in another statement of Sirach (1.14): "To fear the Lord is the beginning of wisdom; and it was created together with the faithful in the womb. (15) With men she nested an eternal foundation; and with their seed shall she be had in trust." As to the last verse Edersheim already suggested that it refers to the Mosaic law which, as the highest wisdom, after its revelation built an everlasting home in Israel; and since then that nation has been holding that wisdom in trust. The same idea is stated again (24.7): "With all these I (wisdom) sought rest; and in whose inheritance shall I lodge? (8) Then the Creator of all things gave me a commandment; and He that created me made my tabernacle to rest, and said, Let thy tabernacle be in Jacob, and thine inheritance in Israel... (10) In the holy tabernacle I ministered before Him; and so was I established in Zion. (11) In the beloved city likewise He gave me rest; and in Jerusalem was my authority. (12) And I took root in a people that was glorified, even in the portion of the Lord's own inheritance." According to this theory, before the revelation on Sinai the seat of wisdom was in heaven; and there is no foundation here for the assumption, derived by some scholars from 1. 14a, that wisdom was created already with the patriarchs in the womb; for that verse refers to Sirach's own time, and the faithful are not, as in II Macc. 1. 2, the patriarchs. As far as I remember, that adjective is in the Palestinian-Jewish literature nowhere applied to the patriarchs, except to Moses in Num. 12. 7<sup>43</sup>; and the context

<sup>43</sup> Cf. Ps. 101.6.

in Sirach shows that the faithful are parallel with those that fear and love God. And as in 1. 10 the mere absence of any further explanation indicates, Sirach who is never sparing in words referred to the same godly men.<sup>44</sup> But as the fear of God was created by God with the faithful in the womb, and their moral and religious conduct throughout their life was determined for them in advance, in what does their merit consist for which God rewards them? It seems that Sirach merely shared the biblical view of the problem that God gives man wisdom and other capacities; so king Solomon was distinguished, I Reg. 3.12, and Jeremiah was designated by God a prophet, before he was formed in the womb, and was, no doubt, endowed with all the qualifications required for his calling.<sup>45</sup> Why God puts the fear of Him into one man and not also into another, is beyond our understanding; but it is clear that, in His judgment and pleasure, He thereby destines one to walk before Him in the fear of God, and the other to be less good or even sinful. And why men who differ as to their determining endowments should equally be held responsible for their deeds is a riddle. On the other hand we find (1.10) that even a good man may not abide in the fear of God, and is liable to sin (2.7): "Ye that fear the Lord, wait for His mercy; and turn not aside, lest ye fall"; and it does not seem to follow from the presence of innate fear of God that its possessor is spared the struggle for the preservation of the grade of piety implanted in him in all trials and temptations. In addition, His gift imposes on him a far greater responsibility for his conduct and his actions. Again, as the faithful were not men of an average character, that acquired for them or roused in them, by a determined self-control and by sustained obedience to the commandments, the fear of God, and who could by the sudden onrush of

<sup>44</sup> Cf. Oesterley and Box-Oesterley.

<sup>45</sup> Jer. 1.5, cf. Sib. 49.7: And yet he was sanctified in the womb to be a prophet.

trials and temptations be shaken in their faith, but were men of tried and confirmed piety, the difficulty of the problem appears insurmountable. But, it appears to me, a satisfactory answer to it is given in Sirach's declaration (15. 14): "He Himself made man from the beginning, and left him in the hand of his own counsel. (15) If thou wilt, thou shalt keep the commandments; and to perform faithfulness is of (thine own) good pleasure." All equipment bestowed by God on man, even wisdom and the fear of God, do not secure man's right conduct, and were not intended by Him to do so; they certainly afford guidance, and with it greater responsibility, but it is left to the choice of every individual to use them properly in fulfilling the will of God, His commandments.

As a preliminary to wisdom man has to acquire the fear of God, and Sirach declares him blessed that pursues and endeavors to obtain wisdom (14. 20-27), and concludes (15.1): "He that feareth the Lord will do this; and he that hath possession of the law shall obtain her. (19. 20) All wisdom is the fear of the Lord; and in all wisdom is the doing of the law. (21. 11) He that keepeth the law becometh master of his inclination; and the end of the fear of the Lord is wisdom. (1.26) If thou desire wisdom, keep the commandments, and the Lord shall give her unto thee freely. (1.27) For the fear of the Lord is wisdom and instruction." First we see that to love God meant the keeping of His commandments, as in Deut. 11: 1<sup>46</sup>. Secondly we see from 15.1 that wisdom and the possession of the law are not identical, as the acquisition of the law has to precede that of wisdom. As on the other hand, wisdom is identified with the book of the covenant, the law of Moses, as the embodiment of God's wisdom (24.23ff.), it is clear that by its study and its observance

<sup>46</sup> Note the parallel in 1.10: And He gave her (wisdom) freely to them that love Him.

man has to acquire gradually the highest degree of wisdom attainable for him. It can be won by instruction (6. 18): "My son, gather instruction from thy youth up; and even unto hoar hairs thou shalt find wisdom. . . (20) How exceeding harsh is she to the unlearned! and he that is without understanding will not abide in her." Even he who is not blessed with mental gifts undertakes to follow wisdom, though, deterred by its onerous demands, he may soon drop her; for she is a chain (6. 24,25), a burden (*ibid.*), and imposes very hard trials (4. 17), until she reveals to him her secrets (18).<sup>47</sup> Again (6. 32): "My son, if thou wilt, thou shalt be instructed; and if thou wilt yield thy soul, thou shalt be prudent... by attending the discourses of the elders... (37) Let thy mind dwell upon the ordinances of the Lord, and meditate continually in His commandments: He shall establish thine heart, and thy desire of wisdom shall be given unto thee." Here also it is stated clearly and definitely that wisdom is something more than the law of the Torah and its fulfilment: it is the guidance derived from the meditation in, and the study of, the law, and from the practical instruction of scholars and teachers. (9. 14): "As well as thou canst, guess<sup>48</sup> at thy neighbours, and take counsel with the wise. (15) Let thy converse be with men of understanding; and let thy discourse be in the law of the Most High. (16) Let righteous men be the companions of thy board; and let thy glorying be in the fear of the Lord."

<sup>47</sup> The crooked ways of wisdom (4.17) are referred by the commentators to the impression made upon the student by the requirements of wisdom. But the wording seems to suggest that the method employed by the teachers of wisdom appeared crooked, as e. g. Aristotle's method of training for the middle way by the extreme opposite.

<sup>48</sup> The Greek *στοχάζομαι* is incorrectly translated by 'guessing'; better is Edersheim's: seek the man out, search him. The original probably had *חקר*; Syriac has *ܚܬܪ* which is the root of the noun *ܚܬܪܐ*, consider, watch. It is most remarkable and very characteristic that also the Hebrew text has the unknown Hebrew root *חַתַּר*; is there the slightest doubt that Hebrew simply took over the verb from the Syriac, without considering its special meaning?

It seems from all these passages that Sirach distinguished three stages in the training for wisdom: 1. the acquisition of the fear of God, meaning, as was shown, obedience to the prohibitions in the Torah; 2. that of the love of God, denoting the practice of the positive duties towards the fellow-man; and 3. that of wisdom, comprising the observance of the extension of the moral law laid down and expounded in the discourses of the elders and their instruction (6. 35). And there seems to have yet been another form of teaching by proverbs of understanding (6.35) the contents of which it would be of great interest to ascertain. They are mentioned again (8.8): "Neglect not the discourse of the wise, and be conversant in their proverbs; for of them thou shalt learn instruction, and how to minister to great men. (9) Miss not the discourse of the aged; for they also learned of their fathers: because from them thou shalt learn understanding, and to give answer in time of need. (18. 28) Every man of understanding knoweth wisdom; and he will give thanks unto Him that found her. (29) They that were of understanding in sayings became also wise themselves, and poured forth apt proverbs". But the most instructive statement on that point is 39.1: "Not so he that hath applied his soul,<sup>49</sup> and meditateth in the law of the Most High; he will seek out the wisdom of all the ancients, and will be occupied in prophecies. (2) He will keep the discourse of the men of renown, and will enter in amidst the subtleties of parables. (3) He will seek out the hidden meaning of proverbs, and be coversant in the dark sayings of parables." If the Book of Proverbs and Sirach's Proverbs may be taken as illustrations of such proverbs, they contain in the first instance the finer and deeper ethics as applied to the fellow-man in all aspects and all emergencies of life.

*(To be continued)*

<sup>49</sup> Syriac has: Not so he that hath applied his soul to the fear of God.



## WAS THERE A FORM נִפְעַל IN EARLY HEBREW?

IN his article "Light on the History of the Hebrew Verb" (*JQR.*, N. S., XII, 25ff.) Israel Eitan reaches the conclusion that in ancient Hebrew the two reflexive forms of the basic conjugation, the  $\aleph$  , one with Nun (Niph'al) and the other with Taw (יִתְפַּקְרוּ, הִתְפַּקְרוּ Judges 20.15), were matched by two reflexive forms of the Pi'el and Po'el, one familiar to us with Taw ((Hithpa'el and Nithpa'el) and another with Nun of which only spare remnants are left in the Scriptures.

How is it, contends Mr. Eitan, that in all the Semitic languages only the  $\aleph$  exhibits a reflexive with Nun? It stands to reason that just as the reflexive with Taw is found in all the conjugations, so also the reflexive with Nun should be found to a larger extent and not be confined to the the  $\aleph$  only. And he did not rest until he found strange forms in the Bible which he could incorporate into the paradigms as the remains of the desired conjugations, as follows:

Po'el	{	אָרֻכִּים	Isa. 33.10.
		הַשּׁוֹכִים	Eccles. 7.16.
		תִּכְנֶנָּה	Num. 21.27.
		תִּכְנֶנִי	Isa. 54.14.
		יִכְנֶנִי	Ps. 59.5.
Pi'el	{	תִּנְשָׂא	Num. 24.7.
		וַיִּנְשָׂא	2 Chron. 32.23.
		הִכְבִּים	Lev. 13.55 56.
		תִּכְסֶּה	Prov. 26.26.
		נִכְפַּר	Deut. 21.8.
		נִסְקְרוּ	Ezek. 23.48.
		נִשְׂאוּ	Dan. 11.14. <sup>1</sup>

All these examples, except the last three, have been considered up to date as forms of the Hithpa'el and Hithpo'el, in which the Taw is assimilated to the first radical, and it was evident to grammarians, from Hayyuj to the latest of Christian grammarians,<sup>2</sup> that although generally the Taw is assimilated only before ד, ט, ת, nevertheless such

<sup>1</sup> Mr. Eitan failed to include in his list: הִנְחֵסְתִי (Jer.22.13) Ez.5.13  
מִנְחָא (Is.52.5) הִנְחֵסְתִי (Ez.37.10)

<sup>2</sup> See *Sefer Harkimah*, § 22,p.145; also Bauer-Leander, *Histor. Grammatik der hebr. Spr.*, § 15g. 337

assimilation might take place also before other letters, especially before כ and נ, as will be explained further on.

Mr. Eitan endeavors to belittle this theory and prove it erroneous on the basis that no evidence is furnished elsewhere for such a process of assimilation and that the Taw does not disappear before any other letters except ד, ט, and ח. Consequently he insists that all the examples cited above are remnants of the reflexive with Nun for Pi'el and Po'el, and that the Dagesh in the first radical, which all of them exhibit, does not represent an assimilated Taw but an assimilated Nun: אָרוֹם stands for אָרוֹמם and not for אָתְרוֹמם, הִנָּכָה stands for הִנָּכָה etc. He finds further support for his theory in the fact that most of these examples are furnished in the Scriptures with a regular Hithpa'el with Taw, as, e. g., יִתְרוֹם Dan. 11.36; יִשְׁתָּוֶם Ps. 143.3; יִתְכַּנֵּן Prov. 24.3; וַיִּתְחַכֵּם Gen. 24.65. Why have two forms of the Hithpa'el for one and the same verb? The conclusion therefore is that the full form with Taw is Hithpa'el, while the form with Dagesh in the first radical belongs to a conjugation וַפְעַל.

If we examine carefully his proofs we find that they are not convincing.

Whence does he obtain the assurance that a Taw cannot be assimilated except before ד, ט, ח? The fact that such a process does not occur in the Scriptures is not sufficient proof. Also, in respect to assimilation of consonants, Hebrew is subject to general Semitic laws, and this strange phenomenon, which cannot be explained from Hebrew itself, may have an analogy in other Semitic languages. Now we know that in the Aramaic of the Palestinian Talmud and of the Midrashim the Taw is assimilated also before the letters כ, פ, י, מ, נ, ק:<sup>1</sup> אָנַשׁ = אָנַשׁם (Shab. 14d); אָתְבַּאשׁ = אָתְבַּאשׁם (Baba Batra 13b); אָתְמַלְכֵּן = אָתְמַלְכֵּןם (Sheḥlim 48d); אָתְזַאִים = אָתְזַאִיםם (Kil'aim 31c).

In the Babylonian Talmud the conjugation Ithpe'el and Ithpa'el drop the Taw in most cases<sup>2</sup>, as, for instance, אָתְכַסִּי = אָתְכַסִּי (Ta'anit 25a); אָתְכַסִּי = אָתְכַסִּי (Soṭah 32b); אָתְכַסִּי = אָתְכַסִּי (Baba Batra 111a); אָתְנַגִּיד = אָתְנַגִּיד (Mak. 11a); אָתְנַטְרַא = אָתְנַטְרַא (Besah 15a).

And not only in the verbs is the Taw assimilated even before כ and נ, but also in words like the following: אָתְכַסִּי = אָתְכַסִּי, אָתְנַטְרַא = אָתְנַטְרַא, אָתְכַסִּי = אָתְכַסִּי;

<sup>1</sup> Dalman, *Grammatik des jud.-paläst. Aramäisch*<sup>2</sup>, par. 59.5.

<sup>2</sup> In Targum Jonathan: וַאֲתְמַלְכֵּן (1 Chron. 12.6), the rendering of וַיִּתְכַּנֵּן.

<sup>3</sup> See Luzzatto's *Grammar of the Aramaic of the Babylonian Talmud*, § 74; also Margolis, *Lehrbuch der aram. Sprache des babyl. Talmuds*, § 4 23, 34.



and in the Palestinian Talmud and in the Midrashim we find לִינָא instead of לִית אָנָא, לִינָא instead of לִית אָנָא.

It is also interesting to note that in the Targum Jonathan and Targum Yerushalmi, where the assimilation of Taw is not so frequent, it nevertheless takes place sometimes before the letters ב, כ, ג, and פ, as, for example, מַחְבְּהִית = מַחְבְּהִית (Jon. to Lev. 9.23); מַחְבְּעִלָא = מַחְבְּעִלָא (Gen. 20.3); מַחְקִלְקִלָא = מַחְקִלְקִלָא (Deut. 14.21); מַחְשְׂרָא = מַחְשְׂרָא (Lev. 21.14).

And as to the elimination of Taw before a guttural as exemplified in אָרומִם, we find its analogy likewise in Aramaic: אִיעֵלֵל (Yer. Shab. 8c), מִיחַחֵם (Yer. Ber. 5c).

Similar to Taw is Lamed, whose nature is not to be assimilated, and yet no serious-minded scholar of to-day will go back to the opinion of Abul-Walid Ibn Hisdai that אָקֶח is derived from נִקַח and not from יִלְקַח, since we do not find that the Lamed is assimilated. Sound philological sense tends to the belief that although we do not find a specimen of an assimilated Lamed, yet "this is not beyond analogy and not far from the usage of the language" (*Sefer Harikmah*, p. 86). And so we find in the Aramaic of the Talmud אָדְרַחָא = אָדְרַחָא, עֵל נָב = אָנָב, etc. Likewise in Arabic the Lamed of the definite article اَل is eliminated before sibilants, dentals, and liquids.

Also the second proof is uncertain. From the fact that most of the examples, on which the writer bases his theory, are found also with a Taw, the opposite conclusion might be deduced, namely that the forms with an assimilated letter belong likewise to the Hithpa'el. For so we find in both Talmuds that in one and the same verb sometimes the Taw is extant and sometimes it disappears. In the Palestinian Talmud: גִּתְּיָא (Gitṭin 18) = גִּתְּיָא (Sanh. 23b); in the Babylonian Talmud: וְאָנְיָר (Baba Batra 10b) = וְאָנְיָר (Ps. 50a); וְמַחְחִי = וְמַחְחִי (Ber. 58b). In these examples the Dagesh undoubtedly stands for Taw and not for Nun, since in Aramaic there is no reflexive with Nun. And it stands to reason that what holds good in Aramaic holds good also in Hebrew.

The two forms נִכְפַּר and נִכְרִי, mentioned above, have been considered so far as belonging to a conjugation Nithpa'el, which is quite current in post-Biblical Hebrew. Naturally, they too have been explained in this manner: נִכְפַּר = נִכְפַּר etc. But once the principle of the assimilation of Taw is removed, this explanation becomes unten-

\* See Dalman, *l.c.*, n.3.

† This opinion is quoted in *Sefer Harikmah*, p. 186.

able, and Mr. Eitan endeavors to prove that these forms constitute the perfect of this newly invented conjugation, whose earlier form was **נָקַטַל** after the Arabic **نَكَطَل**. However, since a short vowel in an open syllable before an unaccented syllable has been discarded in Hebrew, i. e. has been turned into Shewa, it should have been vocalized **נִקְטַל**, in our case **נִכְפֵּר** and **נִנְסֵר**, why then a Hîrek in the Nun and a Dagesh in the first radical? And here Mr. Eitan made use of linguistic analogy, a remedy so often applied to every philological difficulty: **נִכְפֵּר** and **נִנְסֵר** have been vocalized with a Hîrek because the perfect Niph'al is generally vocalized with a Hîrek, and the Dagesh is necessarily inserted to close the syllable which is articulated with a short vowel. So we say **נִמְלוֹל** instead of **נְמולוֹ** by analogy with strong Niph'al. The possibility of such an artificial Dagesh is proved from the Dagesh that occurs in the passive of the Kâl: **לָקַח**, **יָלַד**, etc.

However, this analogy does not hold good. A primitive short vowel in an open syllable before the accent necessarily becomes either long or closed. Now the language did not deem it necessary to lengthen the short vowel and differentiate externally between the passive of the Kâl and that of the Pi'el, since the boundary line between the Kâl and Pi'el with reference to their usage was already blurred somewhat and the difference between them was not always recognizable; moreover, it was to the advantage of the language that it should free itself from a multitude of conjugations wherever these are no longer indicative of special usages, and therefore a Dagesh was inserted also in the passive of the Kâl. But in the instance under discussion in **נִכְפֵּר** etc., it appears that the closed syllable developed in the place of Shewa by analogy only. If so, if the force of analogy is so great, why do we find **נִשְׁדָּנוּ**, **נִקְלוּתִי**, **נִקְטַחְתִּי**, etc.? By analogy we should vocalize **נִשְׁדָּנוּ**, **נִקְלוּתִי**, **נִקְטַחְתִּי**, etc. We must assume therefore that the force of analogy is not sufficient to cause an increase of a syllable where the accent is distant.

And as to **נִמְלוֹל**, it is an altogether different linguistic phenomenon, the discussion of which I must forego at the present for lack of time and space. At any rate there is no comparison between **נִמְלוֹל** and **נִכְפֵּר**; in the former there is a closed short in place of an open long syllable, something customary in Hebrew grammar, and which is not the case in our two examples.

And again: who can tell us that reflexive with Nun of the Pi'el and Po'el was without an additional syllable to the characteristic letter of the conjugation, namely the Nun? It is more likely that it

resembles in this respect its companion the Hithpa'el, with He, a helping syllable, before the characteristic Taw, and accordingly its form was not *הִתְפַּעֵל* but *הִתְפַּעַל*, and indeed we find *הִתְפַּעַלְתִּי, הִתְפַּעַלְתָּ, הִתְפַּעַלְתָּ*, which I quoted above in note 3, in which Mr. Eitan, who believes that the assimilation of Taw is confined to *ך, ט, and ת* only, should have seen the perfect of that conjugation. It is indeed surprising that he passed them without mention, although they occur in all the grammars, from the oldest to the latest.<sup>8</sup>

Without choice he is compelled to assume that that conjugation had two forms of the perfect, one with He, *הִתְפַּעַלְתִּי*, and with assimilation of Nun *הִתְפַּעַלְתִּי*, and another without He, *הִתְפַּעַלְתִּי*, and through analogy *הִתְפַּעַלְתִּי*. And if we add to this his opinion that also *הִתְפַּעַלְתִּי* (Lev. 13.55) is not, what is generally assumed, a passive of the Hithpa'el, but a passive of his new *הִתְפַּעַלְתִּי*, we are confronted with a strange phenomenon that just in Hebrew, which is poor in conjugations compared to the Arabic, which experienced periods of development and atrophy of conjugations (of the passive of the *Kal*, of the *Po'el* and the Hithpa'el, there are only fragments left), that just in Hebrew this novel conjugation should be extant, after it had been exterminated completely in all the other Semitic languages, and not only this but there were left of it two forms of the perfect and the passive!

There is too much of a tendency to search in the Scriptures for decayed remnants of a so-called pre-biblical perfect. The linguistic material of the Bible is alive, effervescent, and in process of development, and many fixed phenomena are found in later Hebrew the beginning of whose development may be traced to the Bible. As a good example may serve the confusion of verbs *לִיא* and *לִי* in the Mishnah (*קורין, קצין, קנא, קנא, etc.*). Traces of this confusion are noticeable already in the Bible: *קוראים* (Ps. 99.6), *קרעו* (Ez. 47.8 *Kerei*, *קצו*, Ps. 32.1), *קראו את בבל ולא נפתח* (Jer. 51.9), etc. Likewise the Mishnic Nithpa'el was not formed in one day, but developed little by little, and the first attempts towards its formation are found in the

p.148 of Gosenius-Kautzsch; the very same page to which Mr. Eitan refers contains also *הִתְפַּעַלְתִּי*, but he must have overlooked it.

<sup>8</sup> The passive of *הִתְפַּעַלְתִּי* should be *הִתְפַּעַלְתִּי* and not *הִתְפַּעַלְתִּי*, and accordingly we should have *הִתְפַּעַלְתִּי* in place of *הִתְפַּעַלְתִּי*. *הִתְפַּעַלְתִּי* (Is. 34.6), *הִתְפַּעַלְתִּי* (Deut. 24.4), and *הִתְפַּעַלְתִּי* are, in the opinion of grammarians, passives of Hithpa'el; Arabic in a like manner formed passives for all the reflexive conjugations. This matter which Mr. Eitan refers to Gosenius and others, is found already in *Sefer Harskamah*, p.96.

Bible. Witness the close relationship in meaning between נָכַפַּר and נִסְרוּ and most of the Nithpa'el forms in the Mishnah: they are all passive, and indeed the Nithpa'el is used mostly as a passive, as, e. g.: ח'ו' שעקביא בן מהללאל נתגרה (Abot 5.3), עשרה נסיונות נתנסה אברהם אבינו (Eduyyot 5.6), ועל היין שנתנסך על נבי המזבח, (Shab. 6.1), ניד הנשה שנתבשל (Hul. 7.5), נתקדשה, נתגרשה, etc.

And so, too, with reference to תָּכַן, תִּכְנֶן, and תִּנְשֵׂא, in which Mr. Eitan discovered the imperfect of נָפַעַל, their passive signification proves very clearly that they belong to a later period in the development of Hebrew, for it is a generally accepted principle that every reflexive Nithpa'el and passive Hithpa'el is a secondary formation.

A third example of a Nithpa'el in the Bible was indentified by scholars in the word נִשְׁתָּה (Prov. 27.15) which, in spite of the efforts of some grammarians at emendation, may be explained appropriately as a Nithpa'el.<sup>10</sup> But if we accept the opinion of Mr. Eitan, that נִסְרוּ and נָכַפַּר are remanants of an obsolete conjugation, then we separate forcibly between these and נִשְׁתָּה, which on account of its isolation is difficult of explanation, for this form with a visible Taw on the side of Nun could certainly not be explained as a נָפַעַל. And, be it understood, the force of a theory comprising a wide range is greater than that of a theory of a small circumference.

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<sup>10</sup> See, for instance, König, *Historisch-Kritisches Lehrgebäude der hebr. Sprache*, I, 591

## DUBNOW'S HISTORY OF THE JEWS IN RUSSIA AND POLAND.<sup>1</sup>

The historiography of the Jews in Eastern Europe is of a comparatively recent date. A Polish scholar and communal worker, Tadeusz Czacki, was the first to formulate the principal data of Jewish history in Poland, in his "Inquiry concerning the Jews and Karaites" (1807). Thanks to precious records quoted in his work, which records were extracted by him from Polish archives, it has retained its significance till now and is a valuable source with regard to the legal status and economic activities of the Polish Jews, particularly at the end of the 18th century. Further evidence was brought to light by the Polish jurists Hube and Maciejowski, and the historian Lelewel. The attempt which was made by Sternberg to draw an outline of the history of the Polish Jews during the Middle Ages proved a failure. Kraushaar's "History of the Jews in Poland" is not as bad, though also of little value. Graetz's exposition of the destinies and character of the Polish Jews in the past is marked by prejudice and insufficient command of the historical data owing to the author's unfamiliarity with the Polish language, the country and the psychological attitude of Polish Jewry.

It was only in the "eighties" that a fresh start was made respecting the investigation of this special branch of Jewish historiography. The Russian scholar, A. Bershadski, then published his "Jews of Lithuania" which has remained a standard work until the present day, and besides this a series of studies dealing with various problems of Jewish history in Eastern Europe. These writings laid the foundation for further research. There also appeared under the editorship of Bershadski "The Russo-Jewish Archive"—two volumes of documents concerning the Jews in Lithuania in the 14th—16th centuries. Meanwhile there had appeared the studies of Chwolson and Harkavy which threw light on the history of the Jews in the Crimea in olden times. A. Harkavy's scholarly researches covered besides this other phases

<sup>1</sup> *History of the Jews in Russia and Poland from the earliest times until the present days*. Translated from the Russian by I. FRIEDLAENDER. Philadelphia: The JEWISH PUBLICATION SOCIETY OF AMERICA, vol. I, 1916 (pp. 411); vol. II, 1918 (pp. 429); vol. III, 1920 (pp. 423).

of the early Jewish settlements in Russia, and dealt also with some aspects of Jewish life in Poland and Lithuania. In the eighties S. M. Dubnow took to historical writing; he devoted himself particularly to the study of the communal organizations of Polish Jewry and to the popular Hasidic movement. Harkavy, Bershadski, and Dubnow are the three outstanding names connected with Eastern European Jewish historiography. What was done subsequently was in one way or another to be traced back to the activities of these men except for fresh investigations due to new developments in the general field of historiography.

Under their influence a circle of Jewish intellectuals in Petrograd undertook to extract from historical documents of all kinds, from chronicles, diaries, memoirs and so on, references to Jews in Russia and Poland. In the "Regesty i Nadpisi" (Records and Inscriptions) was gathered the fruit of their research work. In 1908 the Jewish Historico-Ethnographical Society was founded. The Society edited a quarterly review "The Jewish Antiquity" (Yevreyskaya Starina) which gathered around itself all students of Jewish history. Among the documents brought out in the ten volumes of this review the most valuable was "The Record Book of the Jewish Provincial Assembly in Lithuania during 1623-1761."

Simultaneously with the activities developed in Petrograd much research work was done in Lemberg and in Warsaw by Professor M. Schorr, Dr. M. Balaban, Dr. I. Schipper, Professor S. Askenazy, M. Bersohn, D. Kandel, and others. A series of scholarly books on the once famous Jewish communities of Cracow, Lemberg, and Przemyśl, of monographs dealing with the political and economic organization of the Polish Jews and of studies on various topics of Jewish life in past centuries appeared in 1903-1914, in addition to repertories of Jewish records selected from the archives in Warsaw, Cracow, Lemberg, etc. A promising review in Polish, "Kwartalnik Żydowski", devoted to Jewish history in Poland, was also started but unfortunately had soon to be discontinued.

The investigation of the history of Jewish communities went on systematically. Monographs on Brest-Litovsk, Grodno, Vilna, Ostrog, Posen, Lissa, Lublin, although of unequal scientific value, filled a gap in the structure of Jewish historiography in Eastern Europe. The publications from the archives in Posen, Vilna, Kiev, and Vitebsk

contributed greatly to research in these studies. The task to grapple with this vast amount of material became ever more difficult.

The present work is an attempt of this kind. The translator, the late Professor I. Friedlaender, introduces it by pointing out that, although based on an earlier work, it represents a completely revised and independent edition, supplemented by entirely new chapters including the period from 1881. Dubnow's publication claims to be "the first comprehensive and systematic account of the history of Russo-Polish Jewry". In many respects this claim is justified, for the outlook provided by the work is of a great scope. The author views the manifestations of Jewish life in the territory of the former Russian Empire from their very beginnings until the Great War. Side-lights are thrown on the Jewish settlements on the shores of the Black Sea, on the Kingdom of the Khazars, on the destinies of Jewry in the early Russian Principalities and in the Tataric Khanate of the Crimea—all this is told in the first chapter which covers a period of more than 1000 years. Chapters II to VI give an outline of the history of the Jews in Poland and Lithuania down to the first partition of the Polish Commonwealth. In consequence of this partition a large stock of Polish Jews was taken over by Russia where the Jewish question had assumed a somewhat peculiar aspect. This has given the author an opportunity to interrupt the narrative concerning the fate of Polish Jewry and to cast a glance at the attitude of Muscovy and the Russian Empire towards the Jews. Chapter VIII deals with the position of the Polish Jews as affected by the partitions of Poland during the period 1772-1794. The last four chapters of the first volume picture the history of the Jews in Russia till the death of Alexander I. The second volume relates the history of Russian Jewry in the reign of Nicholas I, Alexander II, and Alexander III, and the third volume is devoted to the sinister regime of Nicholas II.

The merits of Dubnow's work lie in his lucid exposition of the political and spiritual aspect in the life of Russian Jewry. He traces two parallel trends of events, the one determined by the conflict between the anti-Semitic Russian Government and the Jewish people, the other by the struggle between the factors of assimilation and national self-assertion. M. Dubnow has masterfully unfolded this double train of thought. Advocating the Jewish cause in both the political and cultural domain, M. Dubnow voices the popular indignation at

the restrictive policy of the Russian Tzars. He was called to record all the cruelties, all the crimes committed against the Jews by "a sovereign with unlimited powers but with a very limited political horizon", as he styles Alexander III. And he conscientiously fulfilled his task. About 200 pages are devoted to the reign of Alexander III and 169 to that of Nicholas II. Almost the third part of the work deals with a period of only 33 years (1881-1914), but these 33 years count for an eternity, for they comprehend endless trials, interminable sufferings.

The Jewish readers in America will certainly welcome this part of Dubnow's work, as it reflects the sorrows and anxieties which many of the living generation have experienced on their flight from their intolerant native country to free America. The younger generation may have heard from their relatives about this dreadful period and will surely follow with emotion the dramatic narrative of Dubnow. The translator acted well in adding "a number of pages dealing with the attitude of the American people and Government toward the anti-Semitic persecutions in Russia."

Dubnow's strength is to be sought in his gift for ably grouping the material. Like Huxley he "cared about the architectural and engineering part of the business". He is to a much lesser extent fond of spade-work in historical research. Dubnow's treatment of the activities of the Lithuanian Vaad is rather unsatisfactory, though, having been himself the editor of the already named "Record Book of the Jewish Provincial Assembly in Lithuania during 1623-1761", he could have gathered additional interesting instances from the chronicle of this institution. The ordinary reader may perchance not care for a more elaborate account, but students of history—not to speak of specialists—will be somewhat disappointed at the inadequate treatment of the sources by M. Dubnow.

In this respect M. J. Hessen's first volume of a "History of the Jewish People in Russia" (Petrograd, 1916; the second volume has so far not appeared) will prove much more satisfactory. Hessen is just the opposite of Dubnow. He abounds in information which he has collected industriously in Russian archives. Unfortunately he does not possess the literary gift of Dubnow; his account is rather poor. But in a chapter like that dealing with the attitude of Muscovy toward the Jews during the sixteenth and seventeenth centuries, which is



somewhat scanty in sources, Hessen's dry but complete record which occupies 45 pages will be much more appreciated than the brilliant exposition of Dubnow which takes altogether 4 pages. Hessen relates many instances of Jews having settled in Moscow in spite of the various prohibitions promulgated by the Tzars. He is even inclined to think that the hostility of the Russians was directed not exclusively against Jews but against foreigners in general. Notwithstanding this anti-alien policy, foreigners, including Jews, managed on many occasions to enter the country. Some foreign merchants even obtained from the Moscow Government special charters sealed "with a red seal" by which they were allowed to move freely throughout the country and visit the capital for business purposes. The Russian historian S. Soloviov already remarked in his "History of Russia" that in the days of Tzar Alexei Mikhailowitch the Jews succeeded in securing themselves such charters with red seals. They journeyed to Moscow with pearls and other wares and supplied the Court with these goods. If there existed a "Russian Quarantine against Jews", as Dubnow terms the policy of the Muscovite Government in the sixteenth and seventeenth centuries, this quarantine was often broken through and thus became illusory.

We do not wish to imply that Dubnow's historical method is superficial. His attempt at interpreting Jewish history in terms of a biological process has greatly contributed to an understanding of the nationalistic aspect of the Jewish problem. But Dubnow's conception is one-sided. His experience is of the political and literary, not of the economic world. He ignores historical data in the historical field, which do not lend themselves as a basis for his theory. The fault is not with his want of knowledge but with his want of mental adjustment. Since Dubnow began his scholarly career new historical methods have been evolved and a great deal of work has been accomplished of which he curiously enough did not take much notice. This deficiency becomes particularly obvious in his treatment of the economic history of the Jews in Russia and Poland. He manages to quote on p. 264 of the first volume of his work the statement of the deputy Butrymowycz made, before the Quadriennial Diet (1789-1793), on Jewish activities in trades, without making any comment. "In the provinces outside of Great Poland", said the Polish deputy, "half of all the artisans are Jews. Shoemakers, tailors, furriers, gold-

smiths, carpenters, stone-cutters, and barbers are particularly numerous among them". The curtain has been lifted for a moment only, for Dubnow does not care to give us a deeper insight. Further on (p.266) he makes the following remark: "Although forming but one-eighth of the population of Poland, the Jews furnished 50 per cent of the whole number of artisans of the realm. . . . In Poland no less than in Western Europe neither the mercantile guilds nor the trade-unions, which to a considerable extent were made up of Germans, admitted Jewish artisans and merchants into their corporations, and as a result the sphere of Jewish activity was extremely limited." These short passages would have sufficed in a general history of the Jews in which a few chapters only would have been spared to the Jews in Poland, but they are greatly insufficient in a history of Polish Jewry. A survey of the economic position in Poland ought in our opinion to have been included in a work of the scope of Dubnow's.

This serious defect in Dubnow's work is the more regrettable as it could have been easily avoided. In the "History of the Jews in Poland" which appeared in 1914 in Moscow, Dubnow could have found much information on the development of Jewish artisanship in Poland and Lithuania from the fourteenth to the eighteenth century. The merciless struggle of the Christian guilds against the Jewish artisans and the establishment of Jewish guilds were told in this work in a detailed manner. From a few statutes of the guilds, which have been preserved, we are able to gather the constitution of the Jewish guild, the mutual relationships between the masters, the journeymen and the apprentices, the conditions of work, the attitude of the Kahal toward the guild, and many other features of this remarkable Jewish institution. Of all that not a word is mentioned in Dubnow's book. What he says with regard to trade, farming, and other professions among Polish Jews is also very meagre as compared with the exhaustive information given on these subjects in the volume of the "History of the Jewish People" devoted as we have just said to the Jews in Poland.

The economic history of the Jews in the Russian Empire is treated by Dubnow in the same ineffective manner. No notice is taken by the author of the results which the liberation of the serfs had exerted on the Jewish economic position. This far-reaching event, the turning-point in the economic development of Russia, has considerably affected the economic life of the Jews as well. Through the lib-

eration of the serfs and other reforms carried out in the "sixties" new vistas were opened for the country. Fresh methods of promoting trade and industry were entered upon. Facilities were given for the opening of credit institutions which sprang up rapidly; during the period 1864-1872 there were founded 33 joint stock banks, 11 land banks, and 52 mutual credit societies. Railway and canal construction set in and trade began to develop rapidly. The part played by the Jews in this sudden upward development of Russia was a conspicuous one. Jews proved very active in establishing new credit institutions. The Ginzburgs, Rosenthals, Poliakovs, Efrussis, Saks, and others became intimately connected with the organization and management of a series of the foremost banking enterprises. M. P. Spasski points out in his "History of Trade and Industry in Russia" that the brothers J. S. and L. S. Poliakov were the chief promoters of land credit in Russia. Besides the organization of land banks and the participation in large industrial undertakings (Jewish capital was being invested in sugar production, in flour mills, and later on in cloth manufacture) the share taken by enterprising Jewish firms in railway construction is not to be overlooked. Moreover, the liberation of the peasants and the advent of capitalism caused some obvious changes in the vocational constitution of the Jewish population. The dismissed factors of the landlords were forced to look for other occupations. The cadres of Jews driven out from their professions and compelled to take up new ones grew considerably when the system of leasing public revenues was abandoned by the State and when later on the Jews were excluded from the trade in spirits. Some categories of Jews turned to industrial activities, others took to commerce. A considerable part of the Jewish population became proletarianised.

These are only a few brief instances of the effects of the social reforms in the "sixties" which coincided with and furthered the beginnings of capitalism, with regard to the Jews. We should expect that a systematic history of Russian Jewry would lay particular stress on this interesting subject. That Dubnow failed to do it is regrettable; that he omitted even to mention the special literature which dealt with the subject in a much more adequate way, as, for instance, the careful study on the economic development of the Jews in the article "Russia" in the "Jewish Encyclopedia" (in Russian), and the publications, already mentioned, of M. Spasski and that of the "History of the Jews

in Poland", which latter—and that is the point—he reviewed in 1915 in his quarterly "Yevreyskaya Starina", is a mystery to the reader who is assured in the preface that Dubnow has rewritten his book for the present edition. There is only one conjecture possible—namely that the work of Dubnow has not been completely revised.

The "History of the Jews in Poland"<sup>2</sup> which was written by several authors furnishes perhaps a larger outlook and supplies a greater variety of aspects than a single brain could possibly afford. Being one of its collaborators and its editor I must abstain from advancing my own view on the work, but I may point to the utterance of Dubnow himself who in his criticism underscores this particular merit of the publication. Of course books in which many authors collaborate have another defect. They lack, to a certain extent, unity and necessarily include repetitions. The bibliography supplemented to the third volume of Dubnow's book is far from being "extensive". On the contrary, many a source is omitted, as, for instance, the following works, essays, and record books: Z. Pazdro, *The Organization and Practice of the Voyeroda Courts during 1740-1772* (P.) 1903; Stanislaus Kutrzeba, *The Legal Position of the Polish Jews in the 15th Century*, (P.) 1901; Ph. Bloch, *Der Mamran, der juedisch-polnische Wechselbrief*, (P.) 1903; M. Balaban, "Jewish Craft Guilds in Cracow" (R.), in *Yevreyskaya Starina*, 1911; M. Vishnitzer, articles on "Jewish Artisans" and "Commerce" in the *Russian Jewish Encyclopedia*, vols. VIII and XIV; I. Schipper, "Der Anteil der Juden am europäischen Grosshandel mit dem Orient", in the almanac *Heimkehr*, 1912; Fr. Rawita-Gawronski, *Bohdan Chmielnicki*, (P.) 1906; B. Kaz, *On the History of the Jews in Russia, Poland and Lithuania* (H.; extracts from Rabbinical responsa), 1899; L. Lewin, *Der Shtadlan im Posener Ghetto*, 1907; L. Lewin, *Neue Materialien zur Geschichte der Vierlaendersynode*, Frankfurt (on the Main), 1903, 1906, and 1916; L. Fisenstadt and M. Wiener, *Daat Kedoshim*, 1897-1898; M. Vishnitzer, "The Epistle of the Frankists in 1800", in the *Memoirs of the Imperial Academy of Science*, Historico-philological section, 1914; J. Emden, *Megillat Sefer*, 1898; S. Back, "Aufgefundene Aktenstücke zur Geschichte der Frankisten in Offenbach", in *Monatsschrift*, 1877; P. Muliukin,

<sup>2</sup> Appeared in 1914 as a separate volume of the "History of the Jewish People", a publication of which two volumes only were brought out. It was abandoned owing to the War.

*The Travels of Foreigners to Muscovy* (R.), 1909; W. Ogorodnikow, *Ivan III and Foreign Jews*, Kasan (R.), 1912; J. Berkhin, "Two Jewish Physicians at the Moscow Court in *Voskhod* (R.) 1888; J. Joffe, *Regesten und Urkunden zur Geschichte der Juden in Riga und Kurland*, 1910-1912; Buchholtz, *Geschichte der Juden in Riga*; Kostomarow, "Jew-baiting in the Beginning of the 18th Century", (R.), *Kievskaya Starina*, 1883; I. Markon, "The Trial of Vosnitzin", (R.), in *Perezhitoie*, vols. II, III, and IV; S. Rabinowitsch, *Die Organisation des juedischen Proletariats in Russland*, 1897.

All these shortcomings notwithstanding, it is a pleasure to point to the merits of Dubnow's work. It is a remarkable attempt at an interpretation of the Jewish past and a brilliant record of one of the most eventful stages of Jewish history. Dubnow has presented us with a dramatic narrative of the Jewish martyrology in Poland and Russia and with a moving account of the inner cultural developments which political persecutions failed to suppress. His picture breathes life, it never degenerates into a dry account.

We have to mention with deep gratitude the translator of the work who found such a tragic end in the Ukraine. He was not a mere interpreter, but performed a great deal of editorial work in adapting the original to the requirements of an English version. The Jewish Publication Society of America is to be congratulated on having brought out this work of Dubnow's in so pleasing a form. It deserves the widest circulation among English-speaking Jewry.

Berlin.

M. VISHNITZER.

## STRACK'S INTRODUCTION TO THE TALMUD AND MIDRASH

From an article of 75 pages in Herzog's *Realencyclopädie* (1887) Strack's Introduction to the Talmud has grown in the fifth edition to a volume of nearly 250 pages. The new edition treats of Midrashic literature as well.

There is no other book similar in scope and value to Strack's volume and the author is justified in his statement that there is no scholar who will not find this volume very helpful. The new edition is completely recast and it is astonishing to see how exhaustively Strack has used the whole Jewish periodical literature. He often gives references to mere casual notes touching one or the other phase of his subject. As in all the works of Strack the arrangement is clear and practical and makes it very easy to find any information desired.

The bulk of the volume naturally is devoted to the Talmud, while the introduction to the Midrash only fills a little over 30 pages. It is based on the author's article in Herzog's *Realencyclopädie* xiii, 784-98 and will be discussed later on.

The additions and the corrections of the author are evident on every page of his introduction to the Talmud. We get a new chapter on the Tosefta and (p. 29-32) an alphabetic list of the beginnings of the chapters of the Mishna upon which the Gemara is extant and which are frequently quoted by these beginnings in mediaeval literature. The repetitions of passages in the Palestinian Talmud are recorded according to Bacher (p. 65-66).

Some of the chapters dealing with the development and growth of Mishna and Talmud might have been more extended, so that the reader could gain a better insight into the very complicated problems. I think, for instance, that the importance of the activity of the Jabneh Academy for the history of the Mishna needs much more emphasis. Witness the well-known statement of the Tosefta 'Eduyyot I that when the scholars gathered in the Jabneh academy they feared that it would not be possible to find a clear decision in regard to Torah and tradition since one statement would not agree with the other; then the

other sentence (Tos. Sanh. VII) that with the increasing number of pupils of Hillel and Shammai who had not studied sufficiently differences multiplied and two Torahs grew up threatening to disrupt religious unity. This seems to me clearly to imply that up to that period only anonymous Mishnas existed representing either the school of Hillel or that of Shammai. A student therefore might hear contradictory Mishnic statements in regard to the same law without finding a clue which to follow. When the Jabneh academy decided to accept the opinions of the school of Hillel as binding they felt the difficulty caused by the currency of such anonymous collections and they therefore undertook to cite the contrary opinions together with the names of their authors, so that henceforth no mistake could arise whether an opinion was that of the school of Hillel or of his opponents. It seems that the whole material somehow underwent a redaction of which the Treatise 'Eduyyot is a remnant. It is from this period on that we find so many names of authorities mentioned in the Mishna while the scholars living before this time are hardly ever quoted except under the collective designation of the schools of Hillel and of Shammai.

When Rabbi arranged the final collection of the Mishna, according to Lewy, he entrusted it to the memory of R. Isaac ben Abdimi (or Roba) who made some changes in it introducing the opinions of his master (see *Jahresbericht* of the Breslau Seminary, 1905, p. 25). Lewy's very suggestive lecture seems to have remained unknown to Strack.

For the question whether the Mishna was originally written down the three cases of doubt whether a word is to be spelled with an א or ע (p. 23) were originally brought forward by Chajes in his *מבוא ההלכות* to prove that the Mishna was transmitted orally since these variants were caused by mishearing rather than misreading. On the other hand Frankel drew attention to two cases in which the variants can only be explained graphically: Bekorot 44a on VII. 3, סני-סני, and Me'ilah 15b on IV. 2, בעולם-בעולם. Halberstam in *כבוד הלכות*, X, 2, p. 7, suggested to reconcile the contradictory statements that while the Mishna was always studied orally the individual scholars kept for themselves copies, *Megillot Setarim*, for private reference, but never to be used in teaching.

The general assumption (p. 70) that during each Kallah session one complete treatise was studied can hardly be upheld. After all the length of the tractates varies so greatly that it is quite impossible to cover a subject like Sabbath in one month, or to spend a full month on Megillah or Mo'ed-Ḥaṣan. As a matter of fact, we are told (*Berakot* 20a and parallel passages) that during the long period of Rab Judah only Nezikin

was studied, while in a later period thirteen sessions of the Academy (תליסר מתיבתא) were devoted to the Treatise of 'Uḵsin. We thus have the actual evidence that the period of study of the different subjects varied as conditions demanded it.

In reference to the Tosefta a general statement of the changing character of the book is necessary. It ought to be said that we find in our Tosefta side by side statements and supplements to our Mishna which cannot be understood without the latter and enlarged Mishnas including both the text of our Mishna and additions to it. Furthermore the Tosefta evidently frequently follows the arrangement of an earlier form of the Mishna, perhaps that of Rabbi Meir, as Brüll has shown in his review of Schwarz, Tosefta Seraim in *Central-Anzeiger*, p.75, e.g. the Mishna used by the compiler of the Tosefta was arranged in the following order in Berakot IX: 1,2,5a,3b,3a,4,5b, and in Demai 1: 1,3b,3a,3d,3c,4b,2,4a.

The Amoraim frequently used the texts of the Tosefta in statements which afterwards were quoted in their own names by their pupils, but this does not justify Weiss' assumption that the Tosefta has been changed on the basis of Amoraic opinions; see H[orowitz], *Review of Schwarz, Magazin*, 1891, p.145-54.

It is not possible to ascribe the redaction of our Tosefta to R.Ḥiyya. His collection was perhaps one of the principal sources used by the final compiler, but he certainly drew also from other Baraita collections, such as those of R. Osha'ya, Bar Ḳappara, Levi, etc. As a matter of fact a medieval writer like Isaac Or Zar'u'a (אור זרוע I, f. 39a, § 107) attempts to prove from Baba Ḳamma 4b as compared with the Tosefta Baba Ḳamma IX,1 that R. Osha'ya was the author of our Tosefta, since according to both the number of אבות נוקין is fixed at 13. The same evidence was adduced by a Damascus scholar in a letter to Shilah bar Nissim preserved in a Genizah fragment in Schechter's Saadyana, p.41, note, who found this passage in eight Tosefta MSS. which he consulted, six of them coming from Babylonia. The proof, however, is invalidated by the Yerushalmi (Baba Ḳamma I,1) where the same statement is ascribed to R.Ḥiyya's collection.—Hoffman, *Magazin*, XV, 126, ascribes the redaction of the Tosefta to Rab.

As for the Tosefta to Abot Dr. Schechter told me many years ago that the text of Codex Vaticanus 44, printed as appendix 2 to his edition of Abot de Rabbi Natan, was quoted as חוספתא דמסכת אבות. As a matter of fact the quotation in Tosafot Baba Ḳamma 25a is found in that text, chapter IV, p.156, the same passage being quoted



by Naḥmanides on Baba Batra 111b as **בריתה ראבות** (cmp. Sifre Zuṭṭa on 11,14 where this very close parallel has been overlooked).

Of David Pardo's Commentary on the Tosefta the Wilna edition includes only insufficient excerpts from the first four Sedarim; the full text appeared at Livorno, 1776-90. The commentary on Ḳodashim was published Jerusalem 1890 fol. The Tosefta of Mo'ed with a commentary **חוספות בכורים** by R. Menahem Nahum appeared in Sklow 1809 2<sup>o</sup> and with a commentary **הכלת מרדכי** by Mordecai Friedman in Pacs 1898-1901; Zera'im and Shabbat with a double commentary by Isaac Shwadron, Jerusalem 1910-14 2<sup>o</sup>. Parts of Neziḳin with commentary **מן אברהם** by Abraham Abele Gambinner Amsterdam 1732. L. Eisler, *Beiträge zur rabbinischen Sprach- und Altertumskunde* III, p.75-85, collects Tosefta quotations from the commentaries of Rabbi Simson of Sens; Idem IV, 1-126, *Zur Texteskritik der Tosefta*. L. Friedländer, **קשר בונרים**, 1891 is a bitter attack against A Schwartz.

On p.26-28 Strack gives a great deal of information about the arrangement of the treatises in the various sources in tabulated form. In this connection several lists from mediaeval times offer some interest. Thus the poetic treatment of the subject by Abraham Ibn Ezra (Rosin, *Reime und Gedichte Ibn Ezra's*, 201) and Saadyah Ibn Danan (**עומר השכחה**, fol.124) place Pesahim after Yoma. Ibn Ezra also puts Ṭe-harot last as does Rabbi Simson of Sens. A list from Yerahmeel with a number of mistakes is found in Neubauer's *Mediaeval Jewish Chronicles* I, 173. Another list with the beginnings of all the chapters was incorporated by Levi ben Gerson into the introduction to his commentary on the Pentateuch. It is also found as an appendix to the Ṭur, Augsburg 1540, on three pages 2<sup>o</sup>. Here we find Terumot before Shebi'it, Soṭah before Giṭṭin, Ḥullin before Menaḥot, Me'ilah before Keritot. Sanhedrin has 14 chapters and Makkot is accordingly not mentioned. Mo'ed Ḳaṭan is simply called Mo'ed as in MS. Parma; Tamid has 5 chapters the last comprising chptrs. 5-7 of our editions. But in ed. Augsburg all the seven chapters are mentioned. Two other unpublished lists may be given here. The first is taken from Codice Vaticano Ebraico 299 fol. 82b-83a; the second from Codex De Rossi 12 82.

The Vatican MS. of which I have a photograph thanks to the friendship of Professor Freimann, offers various points of interest. e. g. it calls the treatise Neziḳin Masseket Baba and Ṭoharot **אויב** (the beginning of the twelfth chapter of Parah). As in the Parma list and Codex Cambridge Ma'aser Sheni precedes Ma'asrot and like Codex

Cambridge Kaufmann and Parma Tamid has here only six chapters. A second list of the treatises and chapters up to Gittin in the same MS. fol. 84-85 adds nothing new. I omit in the following the constantly recurring words **מסכת** and **פרקים**.

In the Parma list with a copy of which Rabbi Camerini was kind enough to furnish me (see Lewy-Festschrift, p. 394) it is curious that 'Eduyyot and Sheḡalim are transferred to Ḳodashim and some of the small treatises are placed at the end of Ṭoharot and Ḳodashim. Demai and Bikkurim are omitted and also Abot unless **אנרה** in the last line is a corruption of it. Whether Makkot is purposely left out as part of Sanhedrin cannot be determined under these circumstances. The final statement that there are forty treatises is due to a confusion between **ס** and **כ** but the number is larger owing to the addition of the Small Treatises. The number *seven* for the Sedarim in the heading is remarkable and reminds us of the statement in a Gaonic responsum (שקרי השיבה No. 143) that the author saw an additional order of the Mishna, Hoffmann *Die erste Mischna* p. 13 conjectures this to refer to the Small Treatises which may also be the case here.

Cod. Vat. Ebraico 299f. 82b.-83a.

סדר זרעים: מסביות י"א ברכות פרקים ט' פ"א ח. דמאי ו'. כלאים ט'  
 שביעית י'. תרומות י"א. מעשר שני ה'. מעשרות ה'. חלה ד'. ערלה ג'. בכורים  
 ג'. וא' תוספת אנדרונינוס] סך מסבייתא י"א ופרקים ד' ע'  
 סדר מועד: שבת כ"ד. עירובין י'. פסח י'. יומא ח'. שקלים ח'. כיכא ה'  
 ביצה ה'. ראש השנה ד'. תענית ד'. מגילה ד'. חגיגה ג'. משקין ג'. סך מסבייתא  
 י"ב ופרקים פ"ח.  
 סדר נשים: יבמות י"ו. כתובות י"ג. נדרים י"א. נטין ט'. נזיר ט'. כוטה ט'.  
 קידושין ד'. סך מסבייתא ו' ופרקים ע"א.  
 סדר נזיקין: מסכת באבא ל'. סנהדרין י"א. מכות ג'. שביעות ח'  
 עדיות ח'. עבודה זרה ח'. אבות ה'. הוריות ג'. סך מסבייתא ה' ופרק' ע"ג.  
 סדר קדשים: זבחים י"ד. מנחות י"ג. חולין י"ב. בכורות ט'. ערכין ט'.  
 תמורה ז'. מעילה ו'. כריתות י'. מידות ה'. תמיד ו'. קנים ג'. סך מסבייתא י"א  
 פרקים צ'.  
 סדר טהרות: כלים ל'. אהילות י"ח. נעשים י"ד. פרה י"ב. איוב י'.  
 מקואות י'. נדה י'. מכשירין ו'. זבין ה'. טבול יום ד'. ידוים מ' רביעית ד'.  
 עוקצים כל שהוא ג'. סך מסבייתא י"א ופרקים קכ"ו: חסל כל תנאי:

Cod. De Rossi 1282

זהו הוא השבעה סדרים סדר זרעים: ברכות פ"א כלאים שביעית  
 תרומות ומעשר שני ומעשרות חלה ערלה.

סדר טהרות: כלים אהלות ננעים פרה טהרות ומקואות נדה מכשירים  
זבים טבול יום ידים עוקצין שמחות.

סדר מועד: שבת עירובין פסחים יומא י"ט רה"ש סיכה מגילה חגיגה  
חענית מועד קטן.

סדר בבא קמא מצ' ב"ב סנהדרין שבועות הוריות ע"ז:

סדר נשים: יבמות כתובות וטען קידושין נזיר נדרים סיטה.

סדר קרשים: זבחים מנחות ערכין תמורה בכרות חולין כריתות מעילה  
תמיד מדות עדות שקלים קנים מגילה חענית [מגלה חענית] מלאכה  
המשכן אנדה מס' דרך ארץ. ס"ה ארבעים מסכתות.

To the sources for the Spanish text of the Talmud a manuscript of 'Aboda Zarah written in Ubeda 1290 and a fragment of Rosh-Hashana in the Fez edition, both in the New York Seminary, are to be added (p. 78). It is not unlikely that the whole Talmud was printed in Fez for the edition of Niddah with the commentary of Rashi, i. e. without Tosafot, to which Adeni refers in his commentary to Niddah I 2 can only be this edition (or that of Faro 1494?), and furthermore Adeni quotes to Ohaloth III 1 a פאם של נוכרא of which Sulaiman Ibn Uḥna gave a reading. Evidently the latter had a copy of Mishna Ṭoharot printed at Fez which would presuppose the existence of a complete edition of the Talmud unless the Mishna was also printed by itself in Fez. Whether the Mishna edition which Rabinowitz Cat. Merzbacher 2144 assumes to be printed in Constantinople 1516 represented a Spanish text can unfortunately not be determined since this volume was lost before the collection was transferred to the Frankfurt municipal library. On the other hand the New York Seminary possesses eight leaves of an old Mishna edition with interesting readings, in my opinion a Spanish incunabulum and therefore preceding the Naples edition of 1492 generally considered as editio princeps (see *JQR.*, N.S., II 147). This library also owns the Mishna MS. mentioned p. 80nr. 8 as well as a MS of Mishna Seder Mo'ed written by Benjamin ben Isaac Finzi, 1361, and Mishna Zera'im, Nashim and Ḳodashim with Maimonides' Arabic commentary, the first of them on vellum written in 1317. For MS. Oxford 366 (p. 82) see Coronel's *Beth-Nathan*, Vienna 1854.

Important material for textual criticism can also be derived from early mediaeval authors. Some cases in which missing sentences can be supplied from such sources are given in the *Israelitische Monatschrift*, 1909, nrs. 11, 12 and in Heller's edition of Maimonides' *Sefer Ha-Miswot*, p. 25, note.

I subjoin a few notes in the order of the book.

Page 2 l. 4 from the bottom: read Lewy instead of (Schwarz) *Festschrift*. The interesting fact that the term Bet Midrash together with Yeshibah is used as early as the time of the Hebrew Ben-Sira (51, 23; 29) ought to have been mentioned on p. 4.

We find the statement in Talmud and Midrash that certain readings were found in the Torah of Rabbi Meir. Naḥmanides in his *Derashah* on *Ḳohelet* (ed. Schwarz, Frankfurt a.M., 1913, p. 10) clearly recognizes that it is a question of real variations. Strack (p. 11) only records "the common opinion that R. Meir wrote Massoretic notes and Aggadic interpretations on the margin of his scroll of the Torah". I do not think that evidence for marginal notes on scrolls can be found, nor do I see why one should not understand these words in their plain literal sense. The first of these variants מוֹת, in place of מוֹדָר, throws an interesting light on the pronunciation of the former word as "mot". Epstein's instructive article "Biblische Textkritik bei den Rabbinen" in *Chwolson-Festschrift* deals with these and other variants (see also OLZ., II, p. 200).

For Megillat Ta'anit (p. 12) comp. Steinschneider, *Geschichtsliteratur*, pp. 8-9, 172-73.

About the names of the treatises (p. 24) some important notes are given by Ginzberg in his study: "Tamid the oldest treatise of the Mishna," *Journal of Jewish Lore and Philosophy* I, 34-35. MS. Parma like Aggadot ha-Talmud, Yerahmeel and the sources mentioned by Strack calls the fourth order סדר ישועות and like Cod. Kaufmann combines the 3 Babot into מִסְכַּת מוֹקֵיץ. To the literature on Friedländer's forged Yerushalmi (p. 70) on Ḳodashim add Ratner in *ha-Ḳedem* I, 89-108, Ritter in *הקול* II, Warsaw, 1908, Nos. 15-25, W. Rabinowitz in *היונה* I, Odessa, 1907, 15-18 and in *הל חלפיות* XIX, 1910, nrs. 9-10. To the Babylonian Tannaim (p. 69) Rabbi Nathan and Rabbi Isaac ought to be added.

The theory that the treatises Nedarim and Nazir originated in the Academy of Pumpedita (p. 70) was first proposed by Israel Lewy, *Nezikin*, p. 3.

The treatise *Kutim* (p. 74) was translated into English by Nutt, *The Samaritan Targum*, p. 68-72, and Montgomery, *The Samaritans*, pp. 196-203.

For the printing activity of the Soncinos (p. 84-85) the standard work is Giacomo Manzoni, *Annali Tipografici Dei Soncino*, Bologna 1883-86. Among the editions of the Palestinian Talmud *Nezikin*, Berlin, 1862,

ought to be added. Luncz edition of the five parts had appeared (as far as the end of Kilayim) by 1917.

Among the editions of the Babylonian Talmud (p.85) there is some confusion, a few of the treatises of the Fez edition being mentioned first as being printed in Salonica. What Chwolson mentions as Ketubot of Guadalajara is actually the Fez Kiddushin, as Mr. E.N. Adler informed me some years ago.

For Pereferkowitz's edition (p. 87) comp. *JQR.*, N.S., I, 279-85. About the lack of the authority of the Haggadah (p. 93) reference should be made to the responsum of Sherira quoted in Aboab's Introduction to Menorat haMaor, in Eshkol ed. Auerbach, II, 47, and in Moses Ibn Danan's Klale Hatalmud MS. VII chptr. 18; see also the responsum of Hai which follows in the three places.

Hadassi in his Eshkol Hakofer fol.60 has incorporated the Rules of R. Ishmael into his book and did not express himself against them (p.100). The thirty-three rules of R. Eleazar ben Jose ha-Gelili were published by Königsberger in *Festschrift Feilchenfeld* from the Berlin MSS. of Midrash Ha-Gadol and Midrash Hefes, also reprinted under the title *ל"ג בעומר*, Berlin 1907.

The reading *ולנוצרים* in the Shemoneh Esreh (p.123) I also found in the Oxford MS. of Amram's Siddur written in Rhodus 1426; see *Untersuchungen zum Siddur des Gaon R. Amram* p. 15.

To the biographies add the following: Rabbi Akiba (p. 135) by Witkind in *חוט המשולש*, Vilna, 1877, p. 9-60. This booklet also contains p. 105-42 a biography of R. Johanan (p. 138) by the same author and of Levi bar Sisi (p. 134) by A. M. Padua p. 61-104. E. Rosenthal, Elisa ben Abuja (p. 127) Breslau, 1895 (13 pp.), A. H. Rewson, *תולדות ר' מאיר* (p. 129), Warsaw 1889 (27 pp.), B. Koenigsberger R. Ismael ben R. Jose (p. 131), Pleschen 1902 (28 pp.). For Rab (p. 137) see also Albek. *משפחות סופרים* I, Warsaw 1903, p. 28-73. H. I. Brill *תולדות ר' יוחנן*, St. Louis 1919 (108 pp.). For Rab Huna (p., 139) compare A. Lapidot in Rabinowitz's *כנסת ישראל* III, 297-303. Ibidem 333-40 additions to the biography of Raba (p. 145) by Antokolski which appeared in *האס"ף* I (not V). For R. Zeira (p. 141) S. Berman in *לוח א"י* X, 145-154.

Yeshua ben Joseph's *הליכות עולם* (p. 151) appeared first in Lisbon (?) ca 1490 and Constantinople 1510. Bezalel Ashkenazi's methodology (Ib.) was published as far as found in the unique manuscript of the New York Seminary in the Hoffmann *Festschrift* and reprinted Berlin 1914.

S. R. Hirsch wrote several articles against Frankel (p. 152) which are reprinted in his *Gesammelte Schriften* VI, Frankfurt 1912, p. 322-434. For this controversy see also מאירת עינים, *Beleuchtung des Frankel'schen Streites*, Vienna 1861 (38 pp.) against the defenders of Frankel in the *Allgemeine Zeitung des Judentums* and Zweifel, על ישראל IV, Zhitomir 1873, p. 13-64.

M. Lerner also wrote on the oldest Mishna תורת המשנה I, Berlin 1914 (28 ll.) Of Hoffmann's *Erste Mishna* a Hebrew translation by S. Gruenberg appeared in Berlin 1913 (60 pp.) Of Bassfreund's paper (p. 153) a reprint appeared in Berlin 1913 (97 pp.). Of Darmesteter's article "The Talmud" an English translation by H. Szold appeared, Philadelphia 1896 (97 pp.). Maimonides' commentary on Pesahim (p. 157) was edited with Hebrew translation by J. M. Toledano, Safed. 1915 under the title *Yede Moshe* from a MS. Sassoon which the editor considered as autograph. In an appendix he published the vocalized words in the Mishna of this MS. of Mo'ed and Nashim.

R. Meir Rothenburg's commentary (p. 158) we only have for Neg'aim and Ohaloth; the rest is lost. Of R. Asher ben Jehiel the commentary to Zer'aim and Taharoth. the last two chapters of Soṭah Kinnim and Middot is printed besides commentaries to various Talmudic treatises (see A. Freimann p. 308-9 in the article quoted by Strack).

To the commentaries on the Palestinian Talmud (p. 159) add: Dob Berush Ashkenazi, שערי ירושלמי, Warsaw 1866 on Zera'im (Dema, and Shebi'ith with text and glosses of Elijah Wilna); Joshua Issac of Slonim, נועם ירושלמי, I, Wilna, 1863, II 1866, III 1868, IV 1869; Meir of Kobrin, ספר ניר, I, Warsaw 1875, II 1890; Baba Ḳamma with commentary נתיבות ירושלים by I. H. Daiches, Wilna 1880, and Baba Ḳamma I-II with commentary ירושלים הצרופה by Gerson Meir Bojarski, Warsaw 1904 all fol.

Of Meiri's commentaries the latest to be published (p. 162) is that on 'Erubin 1913. The notes of Elijah Wilna appeared first in the Talmud of Vienna 1806-1811.

To the important helps to the study of the Talmud (p. 163) Ariele Lebel Yellin, Yefeh 'Enaim in the Wilna Talmud is to be added for the references to the parallel passages in Tosefta, Midrashim and Palestinian Talmud. Of commentaries on the Talmudic Haggadah Todros Abulafia, אוצר הכבוד השלם, Warsaw 1879, though cabbalistic, is of importance for textual criticism.

For Aicher's *Das A. T. in der Mischna* (p. 175) compare the important reviews by Bacher, *JQR.* XIX, 589–606 and Blau, *M.G.W.J.* LI, 569–89. To the prayer books p. 177 add the *איצי התפלות*, Wilna 1914. For Herford, *Christianity* (p. 179) add Bacher's review, *J.Q.R.* XVII, 171–183. For Berliner, *Beiträge zur hebr. Grammatik* (p. 184) comp. Goldziher *Z.d.M.G.* XXXIV 375–84; to the literature on education (ib.) N. H. Imber, *Education in the Talmud* in Report of the Commissioner of Education for 1894–5 chptr. XLVI p. 1795–1820 Washington 1896, J. Simon, *L'éducation et l'instruction des enfants chez les anciens Juifs*, Nîmes 1879 (52 pp.), Sal. Stein, *Schulverhältnisse, Erziehungslehre und Unterrichtsmethoden im Talmud*, Berlin 1901 (37 pp.) L. Wiesner, *Die Jugendlehrer in der talmudischen Zeit*, Wien 1914 (85 pp.).

Of Fischer. *Die Urkunden im Talmud* (p. 185) part II, *Die Kaufverträge*, appeared in *J.J.L.G.* XII, 1920, p. 1–54. Of Frankel, *Die Eidesleistung* there is a second edition 1847 (263 pp.). Of Vogelstein, *Notwehr* (p. 186) there is a reprint, Stettin 1904 (41 pp.). Add to this page M. Aron, *Histoire de l'excommunication juive*, Nîmes 1882. (168 pp.); D. W. Amram, *Retaliation and Compensation*, *JQR.*, N.S. II, 191–211; Id. *The Summons, a study in Jewish and Comparative Procedure* reprint from *University of Pennsylvania Law Review*, 1919, 18 pp.; M. Waxman, *Civil and Criminal Procedure of Jewish courts*, New York, 1914, reprint from *Students' Annual* I, 259–309. P. 187 add W. Leiter, *Die Stellung der Frau im Talmud*, Amsterdam 1918 (63 pp.), Jacob Neubauer, *Beiträge zur Geschichte des biblisch-talmudischen Eheschliessungsrechtes*, Leipzig 1920 (249 pp.), A. S. Herschberg, *יפי והתפילה של האשה* in *העתיד* V, Berlin 1913, p. 75–102. The list of books on the calendar p. 188 is entirely haphazard. P. 190 add Sapir, *הארץ*, Jaffa 1911 and for natural science, M. Z. Taksin, *יריעות הטבע שבתלמוד*, Warsaw 1907 (68 pp.). P. 191 add G. Nobel, *Zur Geschichte der Zahnheilkunde im Talmud*, diss. Leipzig 1909 (66 pp.). Of Mielziner's book (p. 192) there is an English translation, *The institution of Slavery among the ancient Hebrews*, Cincinnati, 1894. M. Friedmann, *Der Blinde in dem biblischen und rabbinischen Schrifttum*, Wien 1873 (60 pp.) A. S. Herschberg, *יפי והתפילה של האשה* in *העתיד* IV, 1–56 V, 102–4, 1912–13; Krauss in *העתיד* IV, 1–50. P. 193 A. S. Herschberg, *הכרך העיר והכפר בתלמוד* in *Ha-Kedem* III, 93–106. S. Alexander, *Beiträge zur Ornithologie Palaestina's auf Grund der alten hebräischen Quellen* I, Geflügelzucht, Wuerzburger Dissertation, Berlin 1915 (47 pp.).

Of Goldmann, *Der Oelbau*, there is a reprint, Pressburg 1907 (79 pp.).

Strack's introduction to the Talmud is so well-known a book, that it is not necessary to say anything about its arrangement and content. The second part, however, the introduction to the Midrash, being a new venture, may be discussed a little more in detail.

In the second part Strack deals first with the Midrash in general, its writing down and the structure of the various Midrashim. He then takes up the Tannaitic Midrashim and divides them according to the schools of R. Akiba and R. Ishmael. This chapter might have been incorporated into the first part since many passages of these works are quoted as Baraitas in the Talmud and constant reference to these works is indispensable for scientific study of the Talmud. In connection with the Sifra it ought to be stated that besides the work of Rabbi Judah the Midrash of R. Simon was to a large extent embodied into the book by the redactor. Furthermore the Mekilta Milluim as well as certain parts of Aḥare-Mot and Kēdoshim belong to a Midrash of R. Ismael's school and some of these parts are missing in the first edition (Hoffmann 29,30). As to the division of the Sifra originally each Parasha was divided into two or three Perakim. In our edition this fact has been overlooked and a great deal of confusion has been caused by numbering the Perakim continuously.

Blau's paper refers to our Mekilta, not to the Mekilta of Rabbi Simon. He had written on the same subject in the *Steinschneider-Festschrift* p. 21-40 and also gave some contributions in Winter-Wünsche's translation of the Mekilta.

The Midrash Tannaim on Deuteronomy shows that the Midrash Hagadol had either the Sifre and the Mekilta of R. Ishmael on Deuteronomy separately, or a combination of both, but it is not correct to state that it agrees with the Sifre except for textual differences. Hoffmann's edition includes (p. 56-62 and 69-71) several pieces of the Mekilta on Deuteronomy from Genizah texts previously published by Schechter.

To the literature on the Sifra add the important various readings and critical notes at the end of *תוכח ישרים*, Venice, 1622, fol.33-60. Most of them are included in the useful notes of Jacob David, the editor of the edition of Warsaw, 1866, with the commentary of R. Simson of Sens. The latest edition is that with the commentary of Vidal Zarfati, Hosiātyn, 1908. Friedmann's edition of the Sifre appeared in Vienna. The edition of Wilna, 1860, has a very important appendix containing the commentary of Sulaiman Ibn Uḡna. The commentaries Sifre



Debe Rab by David Pardo, Salonica, 1799, and Ohole Jehuda by Judah Nagar, Livorno, 1823, as well as the commentary of the latter on the Mekilta, Shebet Yehuda, Livorno, 1801, are of great importance for the interpretation of these books and ought to be added to the bibliography. The last paragraph in §3 belongs to chapter 17,5 and a reference to Epstein, Miḡadmoniot, p.76, should be added.

Chapter XVII deals with the Midrashim in the form of homilies and discusses the Pesikta, Wayikra Raba, Tanḡuma, Pesikta Rabbati, Midrash Rabba on Exodus, Numbers and Deuteronomy as well as some smaller books. Zunz's reconstruction of the Pesikta cannot easily be overestimated in spite of Buber's corrections (p.203); see also D.H. Müller's review in *Komposition und Strophenbau*, Vienna 1097, p.132-141. M. Friedmann reedited the first four chapters from additional MS. material in Beth-Talmud V. Bloch, *Die Piska zum Wochenfest* (No.12), *Textkritisches zur Pesikta Derab Kahana*", *Monatsschrift*, 1919, p.131-137 is to be added.

In connection with the Tanḡuma (p.205) the editions with commentaries by Abraham Meir Rosen (באור האמרים), Warsaw, 1878 and Benjamin Epstein (נחלת בנימן), Shitomir, 1898, and Weiss' Review of Buber's edition in Beth-Talmud, V, ought to be mentioned. Grünhut collected the Yelamdenu quotations on Numbers, Deuteronomy and Genesis I-XXXVII. Some Yelamdenu fragments from the Genizah are published in Wertheimer's Bate Midrashot and by Schechter in Kohler Studies.

For §5 Epstein's article in Miḡadmoniot ha-Jehudim 67-82 ought not to be overlooked. Debarim Rabba is also found in MS. Parma 1240, Bamidbar Rabba in MS. Paris 150, Munich 97, and MS. Epstein; Shemoth Rabba, Ms. Paris 187.

Chapter XVIII on the exegetical Midrashim is devoted to Genesis and Ekha Rabba. Among the editions of Midrash Rabba (p.211) the latest and best is that of Wilna, 1878, in which the long chapters are divided into paragraphs and which is therefore most convenient for quotations. For these Midrashim as well as for Mekilta, Sifra, Sifre, Tanḡuma, Yalkut etc. Meir Benveniste, Ot Emet, Salonica, 1565, Prague, 1624, contains most important textual corrections. To Zunz's chapter on Genesis Rabba corrections were given by Theodor, MGWJ., 38, p.517-524. To the literature on Midrash Ekha add A.Winkler, *Beiträge zur Kritik des Midrasch Threni*, *Kashau* 1894 (69). On the relationship of the various texts see OLZ, V, (1902), p. 203-205.

The other Midrashim of the five Scrolls are discussed in chapter XIX. Of Agadat Shir ha-Shirim and Midrash Zutta on Koheleth the New York Seminary has a very good MS. which also includes Midrash Mishle in an abridged form. On Esther a Midrash appeared Constantinople, 1519, which was reprinted in Horowitz's *Sammlung*, 1881, p.47-75. Another one was published by Gaster in *Semitic Studies*, 1897, p.173-78 which is not from the Xth, but the XVth century (see Steinschneider, *ib.*, p.610, Bacher *REJ.*,35,p.123). Mordecai's Dream was edited more correctly in Merx, *Chrestomathia Targumica*, p.157-164.

Exegetical Midrashim to other books are dealt with in chapter XX. Here the Midrash Samuel should have found its place instead of in chapter XXII. Of Midrash Tehillim (p.216) the first edition appeared Constantinople 1512. The second part was most likely printed in Fez. The quotations from Midrash Job were collected more fully by Wertheimer, Jerusalem, 1921.

Many of the smaller Midrashim are discussed in chapter XXI arranged in groups as haggadic stories, ethical and mystical Midrashim. There are some books discussed in this chapter which hardly have a place here such as Seder Olam Zutta and the stories of the Eldad. On the other hand the eschatological books of which only Zerubabel is mentioned should have been included; see Bittenwieser, *Outline of Neo-Hebraic Apocalyptic Literature*, Cincinnati, 1901, and OLZ, V 68-72. Sefer-Hayashar was not printed Naples 1552 (p. 218). In that year there were neither Jews nor Hebrew printers in Naples. Of the Sefer Zerubbabel Israel Levi published a critical edition (*REJ* 68 129-160 comp. 69 108-121 71 P. 51-65 222).

The Midrash of the Ten Exiles was reedited by Grünhut, *Sefer-Halikkutim*; III, see ZfHB, 98-100 about the various texts.—Of the Midrash of the Ten Commandments a fuller version than Jellinek's appeared in *חִבּוּר הַמִּעֲשִׂוֹת*, Venice, 1551, reprinted e.g. in *מִעֲשִׂוֹת* Calcutta 1840 and Bagdad 1869.—On the Judeo-German Maase books see especially Steinschneider, *Serapeum*, 1866, p.1-12.—The Hekalot were published from a MS. by Wertheimer, Jerusalem, 1890.

Chapter XXII is devoted to later collections, such as Yalkut, Midrash Hagadol etc., while the final chapter enumerates recent collections of small Midrashim and translations.

Among the editions of the Yalkut (p.223) that with the commentary of Abraham Gedalyah, Livorno, 1650-1660, is of great importance for the readings of the text as well as for the commentary which includes many extracts from its predecessors.

The *Yalkut Makiri* probably originated in Spain, see *OLZ*, V, 1902, p.295-96, and so Strack himself states p.78. I do not know why he transfers the book p.223 to Southern France. Of this *Yalkut* on the Minor Prophets Schechter discovered another copy in MS. Vatican 291, fol. 151-216 from which the beginning of Hosea which is missing in the British Museum MS. and therefore in Greenup's edition might be supplied. Of the *Midrash Hagadol* MSS. are also found in the British Museum, the New-York Seminary and elsewhere. Many more additions were given by Poznanski *REJ* LXXII, 102-7, whose review appeared when this was being written.

I hope these notes will be used for the sixth edition of Strack's book. This indispensable work of reference ought to be in the hand of every serious scholar interested in the important literature it deals with. The impartial and competent treatment of so difficult and complex a literature is admirable and deserves the highest appreciation.

When I received the proofs of this article Prof. Strack had passed away (October 5th. 1922). He was just planning for an English translation of this introduction for which he had asked me to supply additions. It is to be hoped that his plan will be carried out as it will make a most useful work accessible to the American student. Strack's name will forever remain connected with Jewish learning. Well versed in Jewish literature, unusually fair and objective in his treatment, he has with his untiring zeal and great assiduity made lasting contributions to Jewish science. To him we owe the first reproduction of a Hebrew MS. (*Prophetarum Posteriorum codex Babylonicus Petropolitanus* 1878), the oldest dated Hebrew Bible, and that of the only complete MS. of the Talmud at Munich (Leyden 1912), besides his numberless articles and reviews. To him we are even more indebted for his brave defence of Judaism against the many aspersions by its unscrupulous opponents.

זכר צדיק לברכה

ALEXANDER MARX.

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## THE JEWISH YEAR BOOK FOR SWITZERLAND.

THIS is the fifth issue of an annual publication edited for a Commission for the Propagation of Jewish Popular Education in Switzerland. It is an octavo volume of 288 pages which include 12 pages of advertising. Of statistical data which one would expect to find in a publication of this character only 22 pages are devoted to lists of Jewish communities (*Gemeinden*) and Jewish organizations and charitable institutions. A calendar for the year 5681 is given and at the bottom of each page is printed the time of sunset at the beginning and end of each Sabbath and festival during the month. The only other material which entitles this volume to classification as a year book, in the strict sense of the word, is an 18 page review of the year 5680. In this, much emphasis is laid upon the new status of Palestine and significant events which had occurred there. About two pages are devoted to a discussion of conditions in other countries, while two-thirds of the review deals with events affecting the Jewish community of Switzerland itself. The review of the year also briefly describes the work accomplished by communal organizations during 5680.

The bulk of this book is devoted to articles, short stories, and verse. With a single exception the language used is German. A great many of the articles are extracted from books which had recently appeared or were about to be published. "Nouvelle évaluation de valeurs méconnues" is the introduction to a book by Doctor M. Ascher of Nenchâtel entitled "Secrêts révélés de la vie sexuelle du point de vue du Judaïsme". A translation of extracts from a book by Chief Rabbi A. J. Kuk of Jerusalem entitled *אורות* (lights), dealing with Palestine, is also given. There is a lengthy review of the Jewish World Relief Conference held at Carlsbad in August, 1920. S. Ginsburg contributes an analytical article on the Jewish question, in which he concludes that there is no panacea, that at present there is hope for the Jews only in Palestine and in the United States, although the conditions of Jews in other countries will eventually become more favorable than now. Another article, especially important to Swiss Jews because of the pro-

*Jüdisches Jahrbuch für die Schweiz.* Annuaire israélite pour la Suisse. Herausgegeben von der KOMMISSION ZUR VERBREITUNG JÜDISCHER VOLKSBI-  
DUNG IN DER SCHWEIZ. 5. und 6. Jahrgang. Luzern-Basel: VERLAG DES JÜDISCHEN JAHRBUCHES  
5681 (1920-1921). pp.288

hibition of Shehitah in that country, is "Zur Physiologie des Schächtens" by Dr. Robert Guggenheim, a physician of Luzern. "Das Schreibverbot am Schabbos," which also has a local interest, is analyzed by J. Strom of Zurich. Dr. Mordche Rapaport, of the same city, contributes an article on "Jüdische Wanderungsprobleme." Several sermons, a number of short stories, some original and some translated from Hebrew and Yiddish, and a few poems, complete the contents of the book.

In general it may be said that the volume is very interesting reading and that several of the articles are valuable contributions to the discussion of various phases of the Jewish question, but there is a paucity of the statistical and historical material which is generally sought within the pages of a year book. There is, however, no question that that a volume redacted along these lines is more likely to be read currently, than one stressing the statistical side which may be more valuable for reference purposes.

The sixth volume of this Year Book follows the same lines as the fifth. The chief articles, besides the Review of the Year 5681, are "Grundzüge des Chassidismus", by the Reverend Doctor A. Cohn of Basel; "Einiges über jüdische Erziehung", by Doctor M. Ascher of Neuchâtel; "Moderne jüdische Geschichtsschreibung", by Mordchai Vogelmann, Zurich, and "Lewandowski's Bedeutung für den synagogalen Gesang", by Josef Messinger of Bern. Like the previous volume, this also contains several short stories and poems.

New York.

HARRY SCHNEIDERMAN.

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## THE KARAITE HALAKAH AND ITS RELATION TO SADDUCEAN, SAMARITAN, AND PHILONIAN HALAKAH

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## A FIHRIST OF SAADYA'S WORKS.\*

By SAMUEL POZNANSKI, Warsaw.

THE treasures of the Genizah seem to be inexhaustible, casting light especially on the gaonic period, many an obscure chapter of which has been elucidated through them. And now Jacob Mann, one of the most diligent investigators of the Genizah, has published once more in this REVIEW<sup>1</sup>, under the title named in the heading of this article, a Genizah fragment of extraordinary importance, since it entirely modifies and considerably enlarges our previous knowledge of Saadya's life and work. The importance of the fragment is further enhanced through the fact that it comes from the pen of Saadya's sons. However, Mann has not entered sufficiently into all the new points and elements resulting from this fragment, and hence I intend to deal with them.

In the first place, we find here an altogether new date for the duration of Saadya's life. It appears that he lived 60 rather than 50 years.<sup>2</sup> Since the year of his death, 942, is well established, nay even the exact day, Monday the 26th of Iyar, and even the hour (בדיל שני בסוף האשמורת) (החיונה), he must have been born in 882 rather than in 892. Hence all the hitherto accepted dates, such as his age at the entrance upon the Gaonate etc., are to be shifted 10 years backwards. The sole source for the duration of Saadya's life was up to the present Abraham Ibn Daud, who either is inexact, as on other occasions, having had inexact sources

\* [EDITOR'S NOTE] This Essay was translated into English and set in type after the lamented death of Dr. Poznanski, and hence could not have the benefit of the careful revision which he gave to all of his publications,

<sup>1</sup> JQR., N.S., XI, 423-428.

<sup>2</sup> פחות מששים שנים does not mean 60 years complete, but at any rate more than 59.





when he left Egypt, and it is necessary therefore to add [ושלש אתה] כי בן עשרים. If, however, he was born in 882, then he was 33 years old when he emigrated. But granted even that the above-mentioned account of a journey comes from Saadya, he states in his letter nothing but that he had received no intelligence from his pupils for  $6\frac{1}{2}$  years; but he could have left his home much earlier or he might have left and come back and have then left a second time. That indeed the writer of the account of the journey was not much older than 20 years, is proved by the words: כי נער אתה.

From the fragment published by Mann we learn not only the day of Saadya's death, but also the day of his assumption of the title of Gaon. As his sons tell us, he served as Gaon 14 years, less 4 days (מהן י"ד שנה בישיבת מחסיה). Now since he died the 26th of Iyar 942, he became Gaon the 1st of Sivan<sup>9</sup>. Sherira, it is true, states (ed. Neubauer, p. 40 above): וסמכיה (ר"ל דוד) באייר. Yet David b. Zakkai says (*Stud. u. Mitt.*, V, 226 above): השלישי בשנת תשע נמנה. . . ., thus correctly in Sivan. Geiger<sup>10</sup> had called attention to the difference between Sherira's and David's data, but he believed this difference to be of no importance. Harkavy, on the other hand, suggested that in David b. Zakkai's account [ביום השלישי באייר] should perhaps be supplied, or that Saadya had arrived in Babylon in Iyar but entered upon his office only in Sivan, or else the allusion in David b. Zakkai is not at all to Saadya. But all this now falls to the ground, and preference should henceforth be given to the contemporary David b. Zakkai, whose report is verified by our fragment, over Sherira, especially since the question involved concerns the academy of Sura, concerning which Sherira had

<sup>9</sup> Not the 22d of Iyar, as Mann erroneously states.

<sup>10</sup> *L.c.*, p.172 below.

no such exact data as he had about Pumbedita. From the circumstance that Saadya was Gaon 14 years it follows also that after his reconciliation with David b. Zakkai he graced the office of the Gaonate again until his death. This agrees with the account of Sherira (p. 40, l. 8), in opposition to Abraham ibn Daud (p. 66 above).<sup>11</sup>

The newly discovered fragment further recalls to us a new son of Saadya, who bore the quite rare name שְׁאֲרִית<sup>12</sup> and the title אֱלוֹף. This title was borne also by Saadya before his nomination to the Gaonate,<sup>13</sup> and thus it was granted also to his son. The co-author of the memorandum was the hitherto known son of Saadya, Dosa.<sup>14</sup> From another Genizah fragment published by Mann in the same Number of the *JQR*. (p. 412), we learn in the first place that Dosa occupied the position of Gaon in Sura, not as an immediate follower of his father, but as successor to Samuel b. Ḥofni, who died in 1013; then that Dosa occupied this position only 4 years, since he died 1017, hence 75 years after his father. Thus it appears that Dosa not only bore the title Gaon but was also Gaon in deed, and, furthermore, my suggestion is confirmed that Dosa had become very old. Even if he had been a child at the death of his father, and he could not have been very small for the reason that Saadya was a sexagenarian when he died, he had become at any rate more than 80 years old. But why at the reopening of the Sura academy Dosa was

<sup>11</sup> ואח"כ עשו שלום דוד הנשיא ורב סעדיה ואעפ"כ לא חסר רב יוסף ולא שב רב סעדיה לאמונתו. רב יוסף היה נאמן י"ה שנה. The 14 years are evidently those of Saadya, and they were attributed erroneously to Joseph b. Jacob. The report in the בעילות (in Neubauer, II, 82-83) agrees with that of Sherira.

<sup>12</sup> Comp. Bacher, *RLZ.*, XXXVI, 104, n.2, and Zunz, *Literaturgeschichte*, p. 59. An Amram b. Sheerith ha-Kohen not mentioned there is quoted in MS. Bodl. 2878<sub>104</sub>.

<sup>13</sup> See my *שנים*, I, 62-63. Now Sheerith should be added there.

<sup>14</sup> In my monograph on Dosa (רב דוסה ברב סעדיה א"י), Berdyczew 1906; reprint from *דערן*, VI, 1. I have presented him as the only known son of Saadya. But I have overlooked that Saadya him-elf mentioned several of his children, especially in his letter touching the controversy with Ben Meir (see Bornstein, *l.c.*, p. 68, l. 8: סעתי; פדשן מן אדלוי ובעל עירלוי; בזכרי טפי ועירלוי לננדי; comp. also Eppenstein, *l.c.*, p. 91-117). At any rate only Dosa had been known by name until now.

overlooked and Samuel b. Ḥofni chosen as Gaon must remain inexplicable. Dosa must have been then over 50 years old, and Samuel could not have been much older.<sup>15</sup> That the successor to Samuel was not the elder Sheerith but the younger Dosa must have been due to two considerations: either Sheerith, as Mann assumes, was no longer alive in 1013, or else Dosa was the more important of the two. Indeed, the latter has left many traces in the literature of his day, while Sheerith is only now emerging from the depth of the Genizah. Dosa's successor was Israel, a son of Samuel b. Ḥofni, who died in the year 1034, the supposed year of Samuel's death.<sup>16</sup>

The memorandum was drawn up 11 years after Saadya's death (היום לאסיפתו פחות מ"א שנה), hence in 953, at the request of someone (אדל סאלוהם פי דלך), perhaps at the request of Ḥasdai ibn Shaprut, for whom Dosa had prepared also a description of his father's life. That this biography was composed by the younger Dosa alone may be explained through the circumstance that either Sheerith was already dead or else Dosa's authority was already greater than that of his elder brother. At any rate, it was undoubtedly composed after 953.

However, the memorandum throws light mostly on Saadya's literary activity. The books written by him are enumerated here in a certain order, namely: I. books dealing with the Bible (a—k)<sup>17</sup>, among them also sermons (e), probably because they are built on biblical texts, and in connection with them a post-biblical but pre-talmudic work (l); II. prayers; III. the religio-philosophical work (m);

<sup>15</sup> The academy of Sura was reopened 988 at the earliest, i.e. a year after the composition of Sherira's Epistle, therefore 46 years after Saadya's death. When therefore Samuel says (see Mann, p.413,n.10): אין נדול ממנו בחכמה ובשנים, he means only that he is the oldest within the academy, but not the oldest in general.

<sup>16</sup> Dosa and Israel are therefore to be stricken out in my *Babyl. Geonim*, p.106-107. The only source for the date 1034 as the year of Samuel's demise is again Abraham Ibn Daud.

<sup>17</sup> I designate the individual writing of Saadya by the same letters as Mann.

IV. books dealing with Halakah (n—z), among them also the commentary on the *Sefer Yeṣirah* (g), on account of the title הלכות יצירה; V. polemic treatises (s—w), among them, curiously enough, also the prayer book (w), concerning which see further below. Here the memorandum breaks off and we miss the close of the polemic works<sup>18</sup>, the philosophical works, and very likely some other writings. Let us now examine the individual groups:

I. First of all, with regard to the biblical works, it appears that after all Saadya, as Baḥya ibn Paḥuda says expressly in his preface (ed. Yahuda, p. 7, l. 8), commented only upon the greater part of the books of the Bible, but not upon all of them, as used to be generally assumed.<sup>19</sup> Thus he translated the entire Pentateuch, but wrote his comprehensive commentary only on Genesis as far as ויצא, Exodus and Leviticus. Indeed, this commentary is mentioned by name only with reference to these books.<sup>20</sup> Thus on Genesis by Saadya himself (commentary on *Yeṣirah*, ed. Lambert, p. 12 above; *Amanāt*, p. 37), by Solomon b. Jeroḥam in his polemical treatise against Saadya (see *ZfHB.*, III, 172), by Baḥya ibn Paḥuda, I, 10 (ed. Yahuda, p. 74, l. 5), by Judah b. Barzillai in his commentary on *Sefer Yeṣirah* (p. 89, 193, 197), by Samuel ibn Tibbon (יקו המים, p. 126), and by Abraham b. Solomon of Yemen in his *Collectanea* (*II. B.*, XX, 39); the commentary on Exodus is quoted by Saadya himself (*Amanāt*, p. 106; besides this perhaps also in the book on insects, see *JQR.*, XVII, 716), then also by Samuel b. Ḥofni (see אוצר טוב, 1878, p. 61; also הקדם, I, 157), Judah ibn Bal'am in his book on particles, s. ה. ג. הא (ed. Kokowzow, p. 118),

<sup>18</sup> Hence a new group cannot begin with the prayer book, so that it is listed necessarily with the polemic works.

<sup>19</sup> See finally Steinschneider, *Arab. Liter. d. Juden*, p. 55; my paper *MGHJ.*, XLVI, 364, etc.

<sup>20</sup> A part of the following citations is derived from Steinschneider, *Cat. Boll.*, 2185-87. Cognizance is taken only of such citations when the commentary is indicated expressly by יצירה or תפסיר.

Bahya ibn Paḳuda, *l. c.*, Isaac b. Samuel ha-Sefardi in his commentary on II Sam. 21—23 (see *JQR.*, X, 391ff.), Abraham Maimonides on Ex. 6.10 (see Steinschneider, *Arab. Liter. d. Juden*, p. 66, n. 27), and Joseph b. Eliezer on Gen. 23.17<sup>21</sup>; the commentary on Leviticus is cited by Saadya himself in his commentary on Is. 1.2 (see MS. Bodl. 2862<sub>31</sub>), then also by Muhammed ibn Nedim in the *Fihrist* <sup>22</sup>, by Abulwalid, *s. v.* ירק (*Uṣūl.*, 298<sub>17</sub>), by Bahya ibn Paḳuda, III, 4 (p. 147, l. 19), and by Moses ibn Ezra in his work on poetry (see *JQR.*, X, 244). Nor is it an accident that all the known and edited fragments of Saadya's comprehensive commentary on the Pentateuch cover only these two and a half books<sup>23</sup>. Thus on Genesis, besides the passage from the preface in Hebrew translation in Judah ibn Barzillai, *l. c.*, p. 89ff., also on 3.20ff. in Harkavy, *חרשים גם ישנים*, II, No. 10(=הקדם, I, 160—162); on Exodus: 4.25 (*ib.*, II, No. 8=הגרן, VI, 38—40) and parts of chapters 12, 21, 35, 36, which Hirschfeld edited from Genizah fragments (*JQR.*, XVI, 298; XVIII, 600; N. S., VI, 365)<sup>24</sup>; on Leviticus likewise ed. Hirschfeld (*ib.* XIX, 136; N. S., VI, 372; VII 48). It is true that Firkowitz claims to have possessed Saadya's commentary (שרח) on עקב, הצא, and האינו<sup>25</sup>, but in view of the direct data of our memorandum we should not concede the authorship of the Gaon. Then Hirschfeld has edited a Genizah fragment of the Bodleiana (*JQR.*, N. S., VII, 50—54), which contains a

<sup>21</sup> האנון פירש בפרשת ואלה המשפטים כי עשרים פסוקים: צפנת פנקח; ed. Herzog, p.114: "יש שכל שנים מהם הם סמוכים ואלה הם וכו'". See the notes of the editor *ad loc.*

<sup>22</sup> Ed. Flügel, p.23,114: کتاب تفسیر السفر الثالث من النصف الآخر من التوراة مشروح (see Steinschneider, *Cat. Bodl.* 2184, and Bacher, *Abraham ibn Ezra's Einleitung*, p.20,n.2). Only when we established that every book of the Pentateuch was divided into two halves do the words of Ibn Nedim, whose veracity Harkavy (*JQR.*, XI,537) still called into doubt, become understandable, comp. also *JQR.*, N.S., VI, 365,372.

<sup>23</sup> Partly enumerated by Eppenstein, *l.c.*, p.83.

<sup>24</sup> Besides this also on Ex. 15. etc. in Isaac b. Samuel's commentary (see above) which, however, has reference to II Sam. 22-23; then also on 30. 11-16, in German translation, in Bacher, *Die jüd. Bibelexege* etc., p.13-16.

<sup>25</sup> טבוא להקדמות רמות. p.5b.



from other sources. MS. Bodl. 2624<sub>17</sub> contains a fragment of a compilation to the Haftarot, composed in the year 1211 in Fostat by Joseph ראש הסדר b. Jacob ראש בי רבנן,<sup>29</sup> and there we find in a colophon that the compiler made use of the following commentaries on the Pentateuch: Saadya's on Genesis as far as ויצא and on Exodus and Leviticus; Samuel b. Hofni's on Genesis from ויצא, on Numbers and Deuteronomy so far as שופטים; Aaron ibn Sargado's on Deuteronomy from שופטים to the end.<sup>30</sup> This is further proof that Saadya, as is stated in the newly discovered fragment, did not comment on the entire Pentateuch, for otherwise Joseph b. Jacob would have used it completely. Only Mann has drawn false conclusions from the data of the colophon. For he believes that Aaron ibn Sargado and Samuel b. Hofni had completed the defective commentary of Saadya in such a manner that Aaron first commented upon the second half of Deuteronomy, then Samuel b. Hofni explained the still missing parts, namely Genesis II, Numbers, and Deuteronomy I. But, in the first place, it is very unlikely that Aaron, the bitterest opponent of Saadya, should have begun this completion. Secondly, had he done it, he would have begun with Genesis II and not with Deuteronomy II. Finally it can be proved that both these Geonim had commented also upon other parts of the Pentateuch. Of Aaron ibn Sargado only scanty citations are extant, and of these some indeed refer to Deuteronomy II, as on 21.14 in ibn Bal'am *ad. loc.*, who expressly names Aaron's commentary (Fuchs, *Studien*, p. XVIII: וראית פי שרח הזה אלפרשה למר אהרן (בן סרגאדה); to 33.6 in Ibn Ezra on Gen. 34.6; and on 33.14 in Joseph b. Judah (see *JQR.*, XVI, 692, and XVII, 169) and Tanḥum Yerushalmi *ad. loc.* (see Harkavy, גם חדשים

<sup>29</sup> On this point see my *Zur jüd.-arab. Literatur*, p.18. Mann (p.426) has 1111 by mistake.

<sup>30</sup> See the wording of the colophon in Mann, p.426, n.10.

ישינים (X, 23); but there are citations also on Gen. 49.6, Ex. 36. 16, and Levit. 18.6 (all in Ibn Ezra *ad. loc.*; the second in the short commentary, ed. Reggio, p. 113). As to Samuel b. Hofni, his commentaries are expressly quoted in a list of books from the Genizah (*ZfHB.*, XII, 116), among them on the pericopes נח, לך לך, בשלח, שמות, לך לך, and האזינו, while passages on Gen. 17.15, 22.20, 23.1, as well as on Deut. 16.18, 32.51, are accessible through print (Harkavy in טוב, אוצר, 1878, pp. 55–56, 61–64)<sup>31</sup>. The portions of the commentary which presumably were not composed are likewise cited by Ibn Ezra on Gen. 3.1(?); Ex.

<sup>31</sup> There have been preserved besides, alongside the commentary on the last three pericopes of Genesis, which was edited by Israelsohn, a number of fragments in Petersburg, a fragment of the commentary on חקת (or Num.2) in MS. Bodl. 2859g, and perhaps also a fragment on Deut. 4-5, which was edited by Harkavy (see *ZfHB.*, XII, 117, No 1). I have before me a Genizah fragment on Deut. 11.39, which seems to belong to the commentary of Samuel b. Hofni and which I communicate herewith in extenso: וקו' ושמרתם: לעשות את כל החקים ואת המשפטים אררד בה אלקסמין אלתי הנקסם אלהא נמיני אלעצות והי אלעקליה ואלעשעיה פאררד בקו' החקים אלשראיע אלכבריה והי אלתי לס נעלם ונזב אלעמל באה אלא באלכבר אלנבי והלא כמצות כלאים וזא אשבההא לקו' את חקותי חשמרו בחמתך [לא תרביע כלאים] ואררד בקו' את המשפטים אלפראיין אלעקליה ופי קו' אלה החקים והמשפטים אשר חשמרו לעשות בארץ יזב אן נזכר אלמצות אלתי ליש חוב אלא פי ארץ ישראל ולן חוב פי גיראה ונעלם אן מא עדאדא כן אלמצות אלתי תלומנא פי זמאן אלנלות וליס ... ענא אנדא תלומנא פי ארץ ישראל ופי נמיני אלארצות ונקול אן אלכחאב קד עלק בעין אלמצות כביאת הארץ ובאלארץ ואלעבארתא פי דלך ורדת בו' עבארתא פאלעבארתא אלואלי הו ויהי כי תבא אל הארץ בקו' פי אלכבורים ואלעבארתא אלב וכי תבואו אל הארץ כן פי אלערלה וכי תבואו אל הארץ נשעתם וזא אשבה דלך וקאל פי פרשת נסכים כי תבואו אל ארץ מושבותיכם וקאל פי אלעומר כי תבואו אל הארץ אשר אני נתן לכם וקצרתם את קצ' וקאל פי השמטת קרקעות וכי תבואו [אל הארץ] אשר אני נתן לכם ושבחת הארץ שבת ל"ו ואלעבארתא אלבבואכם אל הארץ אלדי קאלה פי ונזב אלחלה ואלעבארתא אלד הו ויהי כי יביאך י' אף (=אלחוך) אלדי קאל פי פצל שבעת ימים האכל מציה ופי פצל והעברת כל פטר רחם ל"ו ואלעבארתא אלה הו מא עלקה בשערים כקו' פי בשר תאוו ואכלת בשעריך וקאל פי בכיר בעל מוס בשעריך תאכלנו ואלעבארתא אלו מא קיל פיה כן אלמצות בארץ פי(?) כן פי אלפיה וקצרתם את קציר ארצכם ונסק עליה וזכרמן לא תעילל וקאל פי אלמירוס ובארצ' לא תעשו ואלעבארתא אלו' הו מא קיל פיה באחת עריך וקאל איצא כי יהיה כך אביין מאחד אחין באחד שעריך וקד כנא קסטנא אלמצות פי כתאבנא פי אלשראיע אקסאמא כתירא ונחן נקסמא ההנא ז' אקסאם פאלקסם אלאל כנהא מא שרע קבל רביל אלאבא אלי ארץ י' והיא Style and contents remind entirely of Samuel b. Hofni. Also the remark that in the "Book of Precepts" the prescriptions were divided into different groups agrees with what we know concerning this book (see הקדם, III, 107 ff.). Likewise the אלשראיע is really supposed to have been cited by Samuel b. Hofni in his commentary on Deuteronomy (Harkavy, *Stud. u. Mitt.*, III, 5d).



4.24,25, 8.6, 19.13 and Lev. 16.8; by Tanḥum Yerushalmi on Deut. 16.21 (in Harkavy, *חדשים גם ישנים*, X, 22), and perhaps also by Abulwalid (*Uṣūl.*, 656<sub>24</sub> on Lev. 11.14<sup>32</sup>).<sup>32</sup> The procedure of Joseph b. Jacob is therefore to be explained in this way, that for those parts of the Pentateuch, which Saadya had not commented upon, he made use of the commentary of Samuel b. Ḥofni, the greatest Bible exegete among the Geonim besides Saadya. But in Joseph's copy of Samuel's commentary the comments on Deut. II must have been lacking, wherefore he borrowed them from the commentary of Aaron ibn Sargado.

Thus it is confirmed from various sources that Saadya commented only upon a part of the Pentateuch. It is true that a list of books from the Genizah (*ZfHB.*, XII, 119) speaks of a *שרה רב סעדיה ז"ל ללחורה*, but either *שרה* here means translation and not commentary (*שרה* and *הפסיר* interchange quite often also elsewhere), or else, what is less likely, the allusion here is not to Saadya's comprehensive commentary but to another treatise of Saadya's on the Pentateuch. For it follows from the memorandum published by Mann that Saadya composed also a *כתאב אוהאר אלריאץ מן בראשית אלי חזאת הברכה כ... ונכת במעאני*, and besides this, also *מסאיל*, i. e. questions to the Pentateuch. The first book, whose title means "Garden Flowers"<sup>33</sup>, is quoted also in two lists of books from the Genizah<sup>34</sup>, and in addition also in an Arabic commentary from Yemen on Maimonides' Code of Laws (Cat. Neubauer, No. 626), namely on the pericope *תרומה* (communicated by Steinschneider, Cat. Bodl. 2207: *פי ז"ל רבינו סעדיה גאון ז"ל* וקאל

<sup>32</sup> Abraham Maimonides at any rate cites Samuel b. Ḥofni only on Genesis from *ויצא* on, see *ZfHB.*, II, 55ff.

<sup>33</sup> Not "Choice of Practices", as Mann translates. The Karaite Kirkisani, a contemporary of Saadya, named his commentary on the Pentateuch *כ' אלריאץ ואלחראיק* "the Book of the Gardens and the Beds".

<sup>34</sup> Ed. Bacher, *REJ.*, XXXIX, 200, no. 22: *ספר בראשית מן כתאב אלחוראן אלריאץ*; my *Saadyana*, p. 21, no. 20: *כתאב אלחוראן* (see *ib.*, p. 206); Comp also Eppenstein, *l.c.*, p. 81. n. 3.

(כתאב אלאזהאר פי שרח פרש' ויקחו לי תרומה), as well as from the same pericope, but without the mention of Saadya's name, in Isaac Gaon's sermons from the year 1221-22 (see *ibid.*: כתאב אלאזהאר). Its content was not, as Mann suggests, an explanation of the light prescriptions of the Pentateuch, but rather, as the word נכת indicates, short glosses to the same. Thus also Judah ibn Bal'am entitled his glosses to the prophets and Hagio-grapha חמקרא נכת "Beauties of Scripture", likewise the short commentary of Levi b. Yefet on the earlier prophets is called ספר יהושע אלך.<sup>35</sup> I assume the identity of this work with the short commentary which Saadya composed at the request of some people and in which everything linguistic, polemic, philosophic, halakic, etc., was omitted;<sup>36</sup> with the plain commentary (אלשרה אלבסיט) of Saadya which Abraham Maimonides quotes alongside with the comprehensive one (אלמתסע)<sup>37</sup>, and perhaps also with the תפסיר מכת[צר] לראס אלמתיבה cited in a list of books from the Genizah.<sup>38</sup> In the מסאיל, on the other hand, there must have been a discussion and solution of various questions with regard to the Pentateuch.<sup>39</sup> It is possible even that a specimen thereof has been preserved. In his

<sup>35</sup> See Steinschneider, *OLZ*, III, 432, and the passages enumerated there, as well as *Arab. Liter.d. Juden*, p.412. Muhammed Ibn Nedim, in the *Fihrist* i.e., calls Saadya's commentary on the Psalms: کتاب تفسیر النکت وهو تفسیر زبور داود علیه السلام

<sup>36</sup> See the end of the preface, ed. Derenbourg, p.4, from which the conclusion was unjustly reached that Saadya here alludes to his translation without any commentary. But the following words speak against it: לאן בעץ אלראובין סאלני אן אפרד בסיט. תפסיר התורה נספא בלא שרח. On the other hand, נפץ אלהורה פ כתאב מפרד אלך תפסיר התורה נספא בלא שרח. in Muhammed Ibn Nedim evidently alludes to the translation.

<sup>37</sup> See Eppenstein, *Abraham Maimoni*, p.33, n.3. Also in the marginal note in MS. Bodl. 2860, ספר וידבר פשט לנאון פיוכי ו'ל' אס' אס' אס' בסיט, hence the short commentary, i. e. the אלזהאר כ' on Numbers.

<sup>38</sup> Ed. Bacher, *l. c.*, No. 21. The only difficulty is that one and the same work would figure under two different titles one near the other, once as תפסיר מכתצר and a second time as אלזהאר כ'.

<sup>39</sup> In the same list ed. Bacher, No. 39, a מסאיל לרבינו סעריה ופיה אלשהאראת ופיה אלשהאראת, as Mann assumes, i. e. that queries were incorporated in the Book on testimonies, but to ו'ל' אס', i. e. that this book as well as the queries was continued in one and the same volume. But here מסאיל no doubt refers to answers on questions, therefore responsa. A collection of such responsa by Saadya is also entitled ו'ל' אס' לרבינו סעריה (אן ו'ל' אס' see *JQR.*, N.S., III, 427).

commentary on II Sam. 21 Isaac b. Samuel ha-Sefardi quotes from Saadya's commentary on הצוה a section which deals with the story of the delivery of Saul's grandchildren to the Gibeonites and where the Gaon says that this story offers nine questions, which he then answers.<sup>40</sup> The entire book was perhaps in such form. From these two books, and preeminently from the first, must have come also various citations from Saadia, which cover parts of the Pentateuch not commented upon by Saadya and which are found neither in the Gaon's translation of the Pentateuch nor in any of his other writings.<sup>41</sup> These citations occur in Dunash's Criticism of Saadya, No. 13<sup>42</sup>; Ibn Bal'am on Deut. 24.16<sup>43</sup>; Ibn Ezra on Gen. 31.50, 37.25, 48.4, 50.19, and Deut. 17.6;<sup>44</sup> Parhon, s. v. עין<sup>45</sup>; Abraham Maimon-

<sup>40</sup> See JQR., X, 391: אעלם אן הרה אלכצה פיהא אלכצה כחירה וחי משכלה וקד הכלם פיהא סייד אלמפסרין רבניו סעדיה נאון זכ' לב' פי תפסיר פרשת וארה תצוה פי קצה אלאורים ואלתמים בכלאם ונו... קאל זכ' לב' ונרי פי הרה אלכצה חסעה מסאיל... וינבגי אן נניב עלי כל ואחרה בן הרה אלמסאיל ונקול אלך. At any rate the אלואהאר כ' might be designated here by תפסיר. At the same time we see that occasionally Saadya incorporated in his commentary on the Pentateuch long discussions on other passages from the Bible. Thus he had also explained David's song, II Sam. 22, as introduction to his exposition of the שירת הים, and the other song, *ib.* 23, 1-7, at the beginning of יוארא, see *ib.* 394 and 396.

<sup>41</sup> Most of these passages are enumerated by Steinschneider, *Cat. Bodl.* 2186-87. But here are considered only Gen. II, Num. and Deut., and only those passages which are surely derived from a commentary on the Pentateuch.

<sup>42</sup> To Gen. 31.91: ועיר פירש נובתי יום עמלתי כן לשון עמל ויניעה והביא ראה כן נובתי טופה (see hereon שפת יתר No. 12) The words והביא ראה prove that an explanation by Saadya was used here and not a translation of his, as in all other passages (enumerated by Steinschneider, *l. c.*, in accordance with the שפת יתר, since the criticism of Dunash had not yet been published; No. 59 is derived from Saadya's list of *haxlegomena*, No. 11; No. 177 from the commentary to כשפנים, see above, No. 21).

<sup>43</sup> In Fuchs, p. XIX below. The other three passages, in which Ibn Bal'am quotes Saadya's explanations, do not have to come from a commentary *ad loc.* Thus on Num. 22.28 (concerning the speech of Balaam's ass) may be derived from the commentary on Gen. 3.1 (see Ibn Ezra *ad loc.*) or from a responsim (see further below); *ib.* 24.7 from Saadya's commentary on Ex. 7.19 (see Fuchs *ad loc.*); to Deut. 5.6 from the commentary on Ex. 20.1 (see Steinschneider, *Cat. Bodl.* 2186). The other citations in Ibn Bal'am from Saadya (Num. 7.84, 11.8.31, 14.19.44.45, 21.14, 22.30, 23.31, 24.6.24, 35.14, and Deut. 7.13) are all derived from the translation.

<sup>44</sup> All the citations from Saadya in Ibn Ezra on Gen. II, Num., and Deut., are derived either from the translation (Gen. 28.10, 33.20, 36.24.39, 37.25 *his* 38.29, 40, 1116, 49, 12.25; Num. 23.10; Deut. 32.1, 33.27), or from the commentary *ad loc.* (Gen. 32.4; Num. 22.22.28), or from the religio-philosophical work (Num. 19.2, 22.19; Deut. 33.2), or finally from another work of Saadya's (Deut. 27.1). Under רמא' on Gen. 30.37 is probably meant not Saadya but Hai (see Derenbourg, *ad loc.*).

<sup>45</sup> On Num. 10.31. Saadya's translation reads differently.

ides (see above); Baḥya b. Asher on Gen. 28.18, and Abraham b. Solomon of Yemen in his Collectanea to Nah. 1.2 (פי שרה ויאבק) and vol. I, f. 37b (פי תאויל פרשת וישלח).<sup>46</sup> איש עמו

Of the Prophets, Saadya commented, as we learn now, only upon Isaiah, which is mentioned also by Ibn Nedim (כתאב תפסיר אשעיא). The remnants of this commentary are collected in ed. Derenbourg. Since then have been added: the beginning, in *Saadyana*, ed. Shechter, No. XXVIII (full of lacunae); on 20.2ff. ed. Fraenkel in the *Harkavy-Festschrift*, p. 91-93; on 40.2-5 and 10-11 ed. Lambert in the *Kaufmann Gedenkbuch*, p. 138-143.<sup>47</sup> Fragments on 1.1-9, 17.11-14, and 19.14-25 are to be found in MS. Bodl. 2826<sub>41</sub> and 2851<sub>9</sub>.

Besides Isaiah Saadya composed also *questions* (מסאיל) to the twelve Minor Prophets. From these are probably derived the various citations on these Prophets in the name of Saadya in the following: Dunash, No. 19 (on Am. 1.13)<sup>48</sup>; ibn Bal'am on Hab. 2.4;<sup>49</sup> in an Arabic commentary on Joel 1.2;<sup>50</sup> Ibn Ezra on Am. 1.3, 5.22<sup>51</sup> and Jon. 1.1,<sup>52</sup><sup>53</sup>

<sup>46</sup> See *H. B.*, XX, 39.

<sup>47</sup> See Eppenstein, *Beiträge*, p. 80, n. 3.

<sup>48</sup> ועוד פירש על בקעם הרות הנולד כמות הרות, but this could have occurred occasionally also somewhere else. On this matter comp. the citations in my *Mose ibn Chiquitilla*, p. 152-153, where the correction is to be made that the originator of this explanation is not Menahem but Saadya.

<sup>49</sup> ואמר רב סעדיה נאון ז"ל פאנה קאל אן קולה וצדיק באמינותו יחיר יורה ולא עדיק באמינותו אלך יחיה מן באב ויהלתי לפסילים ואנה מחטיל עלי לא ישרה נפשי בו אך (see Ibn Ezra *ad loc.*) Another passage, on Hos. 4.10 (see Kimhi *ad loc.*), belongs to the ten verse pairs mentioned above, n. 21, and is therefore derived from Saadya's commentary on Exodus.

<sup>50</sup> MS. Bodl. 2629<sub>2</sub>: ואמר נאון פיימי ז"ל פופק בי כהמא בינחמא (r.) וקאל אנה לש: ויריד בקול ואם בימי אבותיכם אלאבער כל אלא קרב ואלאקרב (r.) אדרי לה יכון פי עשרתם כראך ויאמר ואם בימי אבותיכם: השים רבי סעדיה נאון ז"ל ואמר שר"ל ואם בימי אבותיכם וכבר נאמר בארבה מצרים לפניו: הקריבים ילא החריבם See also my *Shechter's Saadyana*, p. 21.

<sup>51</sup> The well known passage dealing with מריא, which may be derived also from Saadya's commentary on Is. 1.11. See Ibn Bal'am's כתאב אלחננים, s. r. מריא (ed. Kokowzow, p. 90), and the passages cited by the editor, as well as Derenbourg on Saadya's Isaiah, I, c.

<sup>52</sup> Similarly in *Amanat*, 1/5, where, however, Ex. 2.20 is not quoted. Comp. Wertheimer, *רד"ת שלמה*, p. 7, and *MGH.J.*, XLIV, 548.

<sup>53</sup> Possibly derived from the commentary on Gen. 10.4. See also Harkavy, *Stud. u. Mitt.*, V, 68.

Kimḥi on Hos. 2.3, 13, 17, 19, 3.2, 5, 4.2, 10, 5. 10, 6.9, 9.9, 10.6, 11.9, 12.5, Am. 2.4, Zech. 6.3, and Dictionary *s. v.* ברא; the German lexicographer Simson *s. v.* חור (on Zech. 9.1; see Geiger's *Wiss. Zeitschrift*, V, 288); Solomon b. Samuel, *s. v.* כפס;<sup>54</sup> Abraham b. Isaac in the commentary on Canticles 4.12 (on Zech. 6.3; see *Magazin*, V, 127), and Abraham b. Solomon on Joel 1.2, Mic. 5.4, Zech. 6.1 and 14.1<sup>55</sup>. From all these passages, which contain simple explanations, it is difficult to establish the character of the מסאיל, with the exception perhaps of that on Joel 1.2, wherein the contradiction between this verse and Ex. 10.14 is pointed out.—In a list of books from the Genizah (Schechter's *Saadyana*, p. 20) תפסיר הרי עשר קטעתין is mentioned between a אלמתיבה לראס תפסיר and a תפסיר איכה ללפיומי, but that Saadya's name is missing here proves that the allusion is not to a work by the Gaon<sup>56</sup>, especially since he is known to have composed on the Minor Prophets not a תפסיר but a מסאיל. Ibn Nedim likewise omits the Minor Prophets.

Of the Hagiographa, Saadya, according to our list, commented only upon the Psalms (with a detailed introduction), Job, Proverbs, Daniel, Lamentations, and Esther. The commentaries on the first three books, which are mentioned also by Ibn Nedim,<sup>57</sup> have all been edited (with the exception of Ps. 90–106); of Daniel only the translation (ed. Spiegel, Berlin 1906). Fragments of the commentary are contained in MS. Bodl. 2884<sub>4</sub> and 2860<sub>8</sub>. Specimens from it in my treatise on this commentary (in הגרן II) and in my *Miscellen über Saadia*, III, 16–17 (comp. hereon Malter in Neumark's *Journal of Jewish Lore and Philo-*

<sup>54</sup> On Hab. 2.11, see Bacher, *Ein hebr.-Pers. Wörterbuch*, p. 45. But perhaps derived from the list of Hapaxlegomena, No. 18.

<sup>55</sup> *H. B.*, XX, 39–40.65. The passage on Mi. 5.4 is perhaps derived from the *Amanat*, p. 220.

<sup>56</sup> So Eppenstein, *l. c.*, p. 79, n. 4.

<sup>57</sup> See Steinschneider, *Cat. Bodl.* 2104, and Bacher, *Abraham ibn Ezra's Einleitung*, p. 21f., whose conclusions seem to me to be unfounded.

*sophy*, I, 45ff.). A תפסיר איכה ללפיומי is quoted, as we have seen above, in a list of books from the Genizah, only we do not know whether the allusion here is to the translation or the commentary. A fragment of the translation of 2. 8-18 is found in the possession of Rothschild in Paris (see *Kaufmann-Gedenkbuch*, p. 138), and whether the Arabic translation of Lamentations in the manuscripts coming from Yemen (e. g. MS. Berlin 129; Bodl. 2333; Brit. Mus. 145-147. 149.150) is derived from Saadya is still subject to investigation. The commentary on this book is cited by Mebasser ha-Levi (see *JQR.*, XIII, 340, n. 1) and in the sermons of Isaac Gaon (see Steinschneider, *Arab. Liter. d. Juden*, p. 59), and perhaps we possess even a fragment of the introduction (see further below). From it is probably derived also the explanation of 3.41 in Kimḥi's Dictionary s. v. כפף.<sup>38</sup>—A תפסיר מגלת אסתר ללפיומי is likewise mentioned in the above-named list of books from the Genizah, and also here the allusion may be to the translation as well as to the commentary. The translation, perhaps slightly revised, is printed in a Yemenite prayer-book, ed. Vienna 1896. The commentary is cited by Saadya himself in his commentary on Daniel; by Solomon b. Jeroḥam in his polemic treatise against Saadya, and by Joseph Kimḥi in the ספר הגלוי, p. 70.<sup>39</sup> Very likely it was used also by Ibn Ezra on 4.14 (second recension, ed. Zedner, p. 20); Parḥon s. v. הור, and Tanḥum Yerushalmi at the beginning of his commentary (see Wolf, III, 1168). A fragment of the commentary is supposed to be in the Cambridge Genizah (see *JQR.*, XVII, 66).

Saadya thus left uncommented the Former Prophets,

<sup>38</sup> In שפת יתר, No. 77, we read: פלגו מים היכיר בו ר"א פי' הגאון והוא נכון, but in the edition of Dunash's criticism the explanation on Lamentations 3.48 mentioned here is wanting.

<sup>39</sup> See details on this point in my article in *MGHJ.*, XLVI, 364ff. (and bearing on this *JQR.*, XII, 389), where to the quoted manuscripts of the translation is to be added also a fragment on 8.14-17 in the possession of Rothschild in Paris (see *Kaufmann-Gedenkbuch*, I, c. 1).

Jeremiah, Ezekiel, Canticles, Ruth, Ecclesiastes, Ezra-Nehemiah, and Chronicles. Yet there are citations from him on almost all these books, and these I wish to examine in detail.

Joshua: *Ḳimḥi* on 8.32, probably derived from Ibn Ezra on Deut. 27.1 and certainly not from a commentary by Saadya *ad. loc.* (see *REJ.*, LXXII).

Judges: *Ḳimḥi* on 6.39 is derived from the *Amanāt*, section VII (ed. Landauer, p. 213; second recension, ed. Bacher, *Steinschneider-Festschrift*, p. 102; ed. Slucki, p. 109). Fuchs (החוקר, I, 167) believes to have found in the Bodl. a fragment on ch. 17–19, but he himself considers Saadya's authorship doubtful.

Samuel: Ibn Bal'am on I 28 (in Harkavy's *Stud. u. Mitt.*, III, n. 20), II 6.13, 21.1. The first passage concerning the conjuring of Samuel is found also in *Ḳimḥi* on 28.24; in Menahem b. Simon of Posquières on Ez. 17.13 (communicated by Barol, *Menahem ben Simon*, p. 51); in Baḥya b. Asher on Deut. 18.11, and in Abraham b. Solomon of Yemen (see *H. B.*, XX, 40) and it is derived either from Saadya's commentary on Gen. 3.1 or from any other of his writings, or finally from one of his responsa.<sup>60</sup> The second passage contains Saadya's explanation of מריא and is no doubt derived from his commentary on Is. 1.11 (see above, n. 51). Finally, the third, beginning: ויהמל המלך על מפיבושת... אעתרץ רב סעדיה גאון ז"ל הדה אלמסלה וקאל כיף גאון מן דוד אן יהאבי אבן יהונתן ויסלמה ויקתל גירה אלך (likewise in *Ḳimḥi*, *ad. loc.*), was found, as we learn from Isaac b.

<sup>60</sup> Ibn Ezra on Genesis 3.1 says: ויאמר רב סעדיה גאון אחר שהתברר לנו שאין דבור וידעה כי אם באדם לבדו נצטרך לומר כי הנחש גם האתון לא דברו רק מלאך דבר בשבילם והשיב קהלה שלמה (p. 38, where הגאון is found). Now Hai in his responsum to Kabes (שלמה, p. 13.79) treats not only of these two matters, i. e. the speech of the serpent and Baalam's ass, but also of the story of the witch of Endor. Hence Saadya likewise could have treated of the last story, alongside with the first two matters, either in the commentary on Gen. 3.1 or in any one of his treatises, like Samuel b. Hofni, who discussed it in his work on the abrogation of the law (פי נכף אלסרע), or like Hai who did it in a responsum. See also above, n. 43.

Samuel, in Saadya's commentary on תצוה (see above, n. 40). From the commentary on this section must have come also the citation in *Kimḥi* on I 14.45; on the other hand, the explanation of נחויץ (I 21.9) as לחויץ (see שפת יתר, No. 88) must have been derived from one of the Gaon's grammatical works.<sup>61</sup> Saadya therefore never commented on the books of Samuel, and accordingly Fuchs (*l. c.*) could not have found his commentary on I 3-9.

Kings: The explanation of בחיל כבר in שפת יתר, No. 158, does not refer to II Kings 18.17 (so in ed. Lippmann), but so Is. 36.2; that in *Kimḥi* on I 18.37 (= Dictionary, s. v. אחר) is derived from the *Amanāt*, end of section IV (p. 164), and also expressly cited from this work by Parḥon s. v. סבב. As to the citation from Saadya's שרה ויהי בעלות in Abraham b. Solomon on II 2.9 (*II. B.*, XX, 39), it is still subject to investigation.

Jeremiah: From the treasures of the Cambridge Genizah Hirschfeld has edited a fragment which he entitles "Introduction to Saadyah's Translation of Jeremiah(?)" (*JQR.*, XVIII, 317-325; see Eppenstein, *Beiträge*, p., 80 n. 1). But even admitting that the fragment comes from Saadya on account of the passage: כמא שרחת הדין אלאצלן, פי כחאב אלתעדיל אעני תפסיר איוב, still there is nothing to prove that it belongs to Jeremiah, but rather to Lamentations. The citation in the criticism of Dunash, No. 89 (on 49.25), may have been derived from a grammatical work of Saadya, but the explanation *ibid.* of Ps. 16.6 does not agree with the translation of the Gaon, who construes נחלת in the sense of נחלתי (see my *Mose ibn Chiquitilla*, p. 162). The citation in *Kimḥi* on 17.12 belongs to the ten pairs of verses mentioned above, n. 21, and is therefore derived from the commentary on Exodus. Of the three citations

<sup>61</sup> Concerning שפת יתר, No. 60, where the explanation of השירה I Sam. 9.7 is contained, see further below, n. 64.



in the commentary of Menaḥem b. Simon (on 1.5,6, 51.11; communicated by Barol, *l. c.*, p. 50) the first could have been derived from Saadya's commentary on Ex. 33. 12, the third from one of his grammatical works. The source of the second is unknown to me at this moment, but is this one passage sufficient to base upon it the existence of a commentary by Saadya on Jeremiah? Unexplained remains also Saadya's translation of Jer. 2.22, quoted in the Responsa of Isaac b. Sheshet, No. 35: והנאון רב סעדיה ז"ל בשרח תרגם אם תכבסי בנחר אן נסלת באלטפל שהוא קלידה (see *Uṣūl* 470, l. 2-4), which after all points too plainly to a translation of Jeremiah by Saadya.<sup>62</sup>

Ezekiel: The not altogether clear citation in the criticism of Dunash, No. 118 (comp. שפת יתר, No. 90), according to which אבר Ez. 17.3 is equivalent to אברה Deut. 32.11, does not have to come from a commentary on Ezekiel. Both quotations in Kīmḥi (on 14.9 and 18.6) are derived from the *Amanāt* (p. 160, 260). As to the citation in Menaḥem b. Simon on 13.17, see above.

Canticles: Merx claims to have edited Saadya's translation of this book, together with a small fragment of the commentary, from a Yemenite manuscript of the British Museum, No. 150 (*Die Saadianische Uebersetzung des Hohen Liedes in's Arabische* etc., Heidelberg 1882), and indeed the translation of 7.2, which is found here, is quoted in another Yemenite manuscript in the name of Saadya (see p. 27: המוקי ירכיך כמו חלאים... פסרה רבנו סעדיה אוראכך... (אלנאפיה כאלכח). Yet this citation would only prove that the translation was considered in Yemen as the work of Saadya, though on the other hand it must be admitted that it exhibits indeed many Saadyanic characteristics (see Bacher, *ZATW.*, III, 202ff.; G. Loewy, *Magazin*, X, 33ff.). Still more complicated does this question become through

<sup>62</sup> Or should we add ואלפאצאלת after בן ירכיה (not ואלפאצאלת) in l. 15 of the list?

the consideration that Joseph Ibn 'Aknin expressly mentions a commentary by Saadya on Canticles, in which the Gaon is supposed to have explained this book according to its external sense, philologically, as well as according to its inner sense, following the talmudic construction.<sup>63</sup> Then Ibn Ezra quotes in the *שפת יתר*, No. 60, an explanation by Saadya on Cant. 4.8.<sup>64</sup> Is it not possible that there existed already at an early date an Arabic commentary on Canticles attributed to Saadya, in the same way as we find such a one in Hebrew? or should we supply in the list ed. Mann l. 19, also *מגלת בני השמונאי* after *שיר השירים*, by which, however, the succession of the biblical books would be interrupted? Fuchs (*l. c.*) claims to have found a fragment on Cant. 2, yet he himself is doubtful about it.

Ruth: Of the two translations of this book, which Peritz has edited (Berlin 1900), one belongs to Yefet b. Ali; the other is anonymous and has nothing to do with Saadya (see *ZfHB.*, IV, 167; VII, 134). The citation in Tanḥum Yerushalmi on 3.13 (quoted by Eppenstein, *Aus d. Kohelet-Commentar des R. Tanhum Jer.*, p. 5) *... וואמא ר' סעדיהו* (Jud. 9.33) *וצ"ל פאסחדל בקול אלנץ ויהי בבקר כורח השמש* (Jud. 9.33) *וצ"ל פאסחדל בקול אלנץ ויהי בבקר כורח השמש*, may be derived from any passage where *בקר* occurs.

Ecclesiastes: A printed Hebrew commentary on this book, which is attributed to Saadya (Husiatyn 1903), is an extract from the Arabic commentary of Solomon b. Jeroham, see my paper in *MGWJ.*, LI, 718-732. That the citation in Abulwalid, *Uṣūl*, III, l. 4-13, might come from Saadya's commentary on Ecclesiastes, as mentioned by

<sup>63</sup> See the wording in Steinschneider, *Cat. Bodl.* 2188.

<sup>64</sup> *שיר השירים* אמר הנאון מנחה וכמורה ותשורה אין להביא וכו' (comp. also Kimḥi, s. v. *שיר*; in ed. Schröter this passage is wanting). In his commentary on 2.1 Ibn Ezra says: *דודיק ... והנאון אמר כי הוא הריר שהוא תחת הלשון והביא ראיה מהפסוק לכה נורה דודים עד דודיק* ... *והנאון אמר כי הוא הריר שהוא תחת הלשון והביא ראיה מהפסוק לכה נורה דודים עד דודיק*, but this is not Saadya, who renders Prov. 7.18 by *דוד*, and indeed the first revision ed. Mathews has *אחר מהנאונים* (see *Magazin*, V, 126). Saadya ibn Danan, however, who seems to have drawn upon Ibn Ezra, replaced it by: Saadya. See *Uṣūl* 779, l. 16: *ספר כי טובים דודיק מין לכה נורה דודים לעצב אלפס*. *רבי' כעדיה ז"ל*

Bacher (*Leben u. Werke d. Abukwālid*, p. 92, n 15), is not likely. It might rather come from some other work of the Gaon. Fuchs (*l. c.*) claims to have found a passage from Saadya on Ecclesiastes in Isaac Gaon's מטה עזי and a fragment on chapters 2-7 in the Bodleian, but both these are doubtful.<sup>65</sup>

Ezra-Nehemiah: According to Grünhut (פירוש עזרא ונחמיה, I, 6), the commentary on these books is alluded to towards the end of the seventh section of the *Emunot* (ed. Slucki, p. 129) in the words: והוא מה שזכרנו בפרשת באדין. בטלת עבירות בית אלהא. But he overlooked the fact, to which Steinschneider (Cod. Bodl. 496) had called attention, that Saadya here simply points to his earlier deductions in the same section (ed. Slucki, p. 122). Otherwise he would have said: והוא מה שזכרנו בפירוש פרשת וכו'. Grünhut (*l. c.*, p. 23-27; ספר הלקוטים, III, 9-12; מאסף, ed. Rabinowitch, p. 137-143) endeavors also to prove that the commentary on Ezra-Nehemiah, ed. Mathews, whose author undoubtedly was called Saadya,<sup>66</sup> is the work of Saadya Gaon, but his deductions on this point have long since been disproved (see, e. g., הנרן, II, 103). To be sure, this commentary was ascribed to the Gaon also by some medieval authors, just because the name of the author is Saadya. Thus by Zidkiah b. Abraham, who quotes a passage from it with the words: ורבינו סעדיה גאון זצ"ל כתב: תניא, f. 102b; Oeuvres de Saadiah, IX, 160, No. 79), then in Solomon of Urbino's מועד אהל זר, s. v. זר, and in a marginal

<sup>65</sup> In 1911 there appeared in Jerusalem שלש כנולות שנהגים לקרותם בפסח בשבועות ובסוכות שיר השירים רות קהלת בליות א' הרום יב"ע (sic) פירוש רש"י זצ"ל (ג) תפסיר ערבי של רבינו סעדיה גאון ז"ל שלא נדפס עד היום וכו' (44 leaves 49). But the translation of Canticles is identical with ed. Merx, that of Ruth with the anonymous translation ed. Peritz (not without important variants), that of Ecclesiastes finally with ed. Loewy, which is the work of Isaac ibn Gayyat.

<sup>66</sup> *Commentary on Ezra and Nehemiah* by Rabbi Saadiah (*Anecdota Oxoniensia* I, 1), Oxford 1882. The same commentary was edited again by Berger in the קבץ יד 1896-97 under the name of Benjamin b. Judah.

note on de Rossi's *Meor 'Enayim*, where רבינו סעדיה is named as the author (see Mathew's Preface, p. VI-VII).

Chronicles: In a gaonic responsum ed. Ginzberg (*Geonica*, II, 16-18), which has reference to II Chron. 3.3, we read towards the end: ודבר זה ט[ע]ה בו הנאון אלפיומי: זכ' לב' טעות גדולה, but the responsum is too fragmentary to enable us to draw from it any conclusions. The citation in the criticism of Dunash, No. 177, with reference to II Chron. 30. 18-19, belongs to the ten pairs of verses quoted several times above and is therefore derived from Saadya's commentary on Exodus. In the commentary ed. Kirchheim are quoted explanations of Saadya's on I 2.52 (p. 14, l. 15) and 8.7 (p. 27, l. 19)<sup>67</sup>, but from the passage to 4.18 (p. 18 below): ואנשי קירואן בעלי מקרא ומשנה חכמים גדולים: יצאו משיטה זו והושיבם רב סעדיה אלפיומי the conclusion might be drawn that also the other explanations were contained in one of Saadya's epistles to Kairowan. Perhaps also Saadya's explanation on I Chr. 7.15 in Judah b. Barzillai's commentary on the *Sefer Yeşirah*, p. 63, is derived from one of the Gaon's responsa. Undetermined is the source for Saadya's explanation of צפה (II Chr. 3.15) in Abulwalid (*Uşul* 619, l. 7; hence in Kimhi's Dictionary, s. v. צפה), but all this is not sufficient evidence for the existence of a commentary by Saadya on Chronicles, which is not mentioned expressly anywhere.<sup>68</sup>

Thus the material which I have brought together here confirms the data of the list published by Mann, to wit, that Saadya commented only upon the books of the Bible enumerated in this list. Though the source of some citations from the uncommented books may not always be

<sup>67</sup> The citation on 3.1 (p. 15, l. 11): אבל יראם המדיאלי פירש מדברי סעדיה נאון בלאב שהיתה צורת דומה לשל דוד וכל הריאה אימר כאלו אבני יסוד הנאון רב סעדיה שניתן וחדש דברים שלא שמעה אין ואני אחריו נתעסקנו להוציא הדברים לאמתם אסור בבית שומר (see Kautmann on *Jehudah b. Barzillai*, p. 335 below).

<sup>68</sup> See also Steinschneider, *Arab. Liter. d. Juden*, p. 67, No. 31.

traced, it is necessary to observe that Saadya, as we have learned from the commentary of Isaac b. Samuel ha-Sefardi, explained sometimes even whole chapters of the Bible as excursuses at the first opportunity that offered itself. Unexplained remain only Jeremiah and Chronicles, in view of the fact that Isaac b. Sheshet, or more precisely Joseph, ibn Aḳnin, expressly mentions Saadya's translation, or rather commentary on these books. Let us hope, however, that also here new discoveries will throw light on the mooted question.

In between the biblical books mention is made also in the list of sermons without number (דרשאַת עדה... לם) (אחציהא...), probably, as stated above, because they were built on biblical texts. Until now Saadya has not been known as a preacher. The form דראשאַת occurs also in the list of books ed. Bacher (*REJ.*, XXXIX, 200, No. 4.13.39.42.44) and also elsewhere. Another form is דראריש (*ib.* XL, 56, No. 4).

As an appendix to the biblical books mention is made of a מגלת אנטוכוס, hence the Aramaic מגלת בני השמוני וצדר לה, probably translated into Arabic, with a preface: no doubt identical, as Mann rightly assumes, with the מגלת בני השמוני ומעניהא, quoted in lists of books from the Genizah. The Aramaic original is cited by Saadya (*ספר הנלוי*, p. 151, l. 16), who considers it as the work of the five sons of Mattathiah, hence its mention together with the biblical books<sup>69</sup> and hence also Saadya esteemed it highly and rendered it into Arabic. We possess an Arabic translation of this Megillah, which has been published (in Hirschfeld's *Arabic Chrestomathy*, p. 1-6; a fragment also ed. Abrahams in *Kaufmann-Gedenkbuch*,

<sup>69</sup> Nissim placed our Megillah even within the rank of the 24 books of Scripture, see the citation from his *Ma'asiyot* in Harkavy (*Steinschneider-Festschrift*, Hebrew division, p. 19; *JQR.*, XI, 543): סיי בא הו כדון כהל מגלת אכתר ומגלת בני השמוני וצדר לה. וסאור בא הצמנה אלארבעה ועשרין ספרא אלך.

p. 119-120). Is it Saadya's? From the fact now revealed the doubts of D. S. Margoliouth (*JQR.*, XII, 511; XIII, 158; see the refutation of Harkavy, *ib.*, XII, 953) may be said to disappear. Comp. also Steinschneider *Arab. Lit. d. Juden*, p. 277, No. 33.

II. סדור אלסלואת (*sic!*). This book is mentioned in the list once more as כ' אלונוב אלצלאת (see further below). I conjecture now that by the סדור are meant the Hebrew prayers and piyyuṭim composed by Saadya, in contrast to the prescriptions concerning the prayers, which passed as a separate work.<sup>70</sup> It is noteworthy that in a list of books from the Genizah ed. Worman (*JQR.*, XX, 461) mention is made of a צלאת רבנו סעדיה ושרהא and a שרה צלאת רב[נו סעדיה].

III. כתאב אלמאנא, the well-known religious-philosophical work.

IV. Of the halakic works the following are mentioned: (1) כתאב אלשהאדאת, "Book of Testimonies". The full title was: כ' עלם אלשהאדאת ואלמואתיק (*JQR.*, XIII, 55, No. 78; see *ib.* 329), or כ' אלשהאדאת ואלמואתיק (*REJ.*, XXXII, 127, l. 9), hence "concerning testimonies and contracts".<sup>71</sup> The beginning in *JQR.*, XVI, 299; a fragment perhaps in MS. Bodl. 2760<sub>13</sub>. Concerning פיה אלשהאדאת ופיה כסאיל ונוו פיה לרבנו סעדיה ו"ל see above. Comp. also in addition Eppenstein, *l. c.*, p. 120.—(2) כתאב אלוראיע, "Book of Pawns", see *Saadyana*, ed. Shechter, No. XI, where the full title is אהכאם אלוראיע.<sup>72</sup> Comp. also Eppenstein, *l. c.*—(3) כתאב כ' אל[מוארית], probably to be completed into "Book of Inheritances", for this book, which has been published in the Arabic original with a Hebrew translation

<sup>70</sup> In a list of books from the Genizah mention is made of a סדור ר' סעדיה (*JQR.*, XIII, 52, No. 5) and a נזכ אלצלאת כ' (*ib.*, 55, No. 91). Are the various titles here to be explained in the same way? Comp. Eppenstein, *Beiträge*, p. 122, n. 3.

<sup>71</sup> Quoted in Steinschneider, *l. c.*, p. 49, as two separate works.

<sup>72</sup> I. No. XII also part of the same work? The fragment edited by Friedlaender in the *Levi's Festschrift*, p. 60 '85, is not derived from Saadya, see *MGHJ.*, LV, 501.

by S. Horovitz (in *Oeuvres*, IX), is one of Saadya's larger halakic works and hence quoted independently.—(4) תפסיר הלכות יצירה is quoted under this title also in *Amanat*, p. 37 (see there note 3). Owing to הלכות this book is classed with the halakic works.—(5) כתאב נמע משראיע, therefore a collective volume of halakic writings, which no doubt on account of their small size were united into one volume. Perhaps this volume is meant whenever Saadya's כתאב אלשראיע is quoted, so in Ibn Nedim in the *Fihrist* and in MS. Bodl. 2828<sub>2</sub>, and perhaps the full title of this volume was כתאב תחציל אלשראיע אלסמעיה, which is quoted by Moses Ibn Ezra in his poetical treatise.<sup>73</sup> Of such small halakic writings by Saadya the following are known by name: (a) מתנות "concerning gifts" (Steinschneider, Cat. Bodl., 2161, No. 4; *Arab. Liter. d. Juden*, p. 48, n. 4); (b) פי אלרבא "concerning usury", the beginning in *JQR.*, XVIII, 120 (see Eppenstein, *l. c.*, p. 119, n. 7); (c) עריות "concerning incest"; Steinschneider (*Arab. Lit. d. Juden*, p. 49, n. 8) doubts the existence of this treatise, yet see my *The Karaite Literary Opponents of Saadiah Gaon*, p. 98-99, where the citation in Ibn Ezra on Lev. 18.21 is still to be added: והגאון אמר כי הנאוף על שמנה מעלות וכו'; at any rate all the involved passages may be derived also from Saadya's commentary to Lev. 18; (d) טומאה וטהרה "concerning uncleanness and cleanness" is mentioned in the list of books ed. Bacher (*REJ.*, XXXIX, 200, No. 13), then in another list also a מכתצר טומאה וטהרה (see my *Schechter's Saadyana*, p. 21, No. 9); (e) הלכות נדה "Laws concerning Menstruation", is cited by Saadya in his commentary on *Yesirah* (ed. Lambert, p. 43:). וכמא שרחנא פי אמר מצות נדה.... According to Steinschneider (*l. c.*, n. 7) this treatise must have formed a part of the one preceding, yet in a Petersburg manuscript the end of our treatise in Arabic appears

<sup>73</sup> Which should therefore be distinguished from the ב' אלקיאם עלי אלשראיע סבעיה, which will be mentioned further below.





for Burning Candles on Sabbath". This work is quoted in a list of books from the Genizah (*JQR.*, XIII, 55, No. 78-87) as *מקאלה פי סראג אלסבת* and is cited also by Ibn Ezra on Ex. 35.3b (see *ib.* 329). But it did not form an appendix to the *כתאב אלחמיי* (see *ib.*, X, 245), and was rather an independent work.—(2) *כתאב אל[גמ]ע אבטאל אל....ה* (2), perhaps an anti-Karaite work against the methods of analogy (*היקש*, *קיאס*), hence something like *אל[ק]יאס* [קיאס]. Thus would be verified Hirschfeld's assumption (*JQR.*, XVIII, 600ff.) that Saadya composed such a book and that he refers to it in his commentary on Ex. 35.3, where we read (*ib.* 607, l. 7): *ומנהם מן תעלק עלינא בטריק: אלקיאס פאחתה פי זהאח שתי פאלמקדם אולא אבטאל אלקיאס פי אלשראיע אלסמעיה ודלך כמה רדדת בה עלי מדעייה פי אלכתאב כתאב לה*. It might then be identical with the *כתאב [אבטאל] אלקיאס*<sup>76</sup> עלי אלשראיע אלסמעיה תאליף מורנו ורבנו יוסף mentioned on the title-page of MS. Bodl. 1533. Comp. Steinschneider, *Cat. Bodl.*, 2165-67; *Arab. Lit. d. Juden*, p. 50, No. 13; *JQR.*, X, 259; XIII, 328; *REJ.*, XXXIX, 206; XL, 87; my *Opponents*, p. 97.99; Eppenstein, *l. c.*, p. 110, and above n. 73.—(3) *אקאמאח אלעיבור*, no doubt the *כתאב אלעיבור*, which, as now shown by the full title, dealt chiefly with the maintenance of the great antiquity of the current calendar, and was directed therefore against the Karaites, for which reason it is listed among the polemical works. This book was known also in northern France and is cited by Rashi and Jacob b. Simson (see *REJ.*, LXXII, 3) Ibn Nedim in the *Fihrist* has *כתאב אלעבור* והו *אלתאריך*, hence this book dealt also with chronology, and as a matter of fact a *כתאב אלתאריך* (or *אלתואריך*) by Saadya is mentioned also elsewhere. Comp. Steinschneider, *Cat. Bodl.*, 2170-72; *Arab. Lit. d.*

<sup>76</sup> So correctly is Neubauer's Catalogue; on the other hand, in Munk, *Notice sur Saadia*, p. 15, *אלקיאס* by mistake, but at any rate *אבטאל* is to be added. If there were space in the list ed. Mann, it might be best to read also there: *כ' א' אבטאל* *אלקיאס* עלי (פי) אלשראיע אלסמעיה.

*Juden*, p. 63, No. 26; *Geschichtsliteratur*, p. 44-45; Bacher, *REJ.*, XXXII, 143; XLIX, 298; LXII, 158 below; Marx, *ib.*, LXIII, 299; Eppenstein, *l. c.*, p. 112, and my conclusions in *JQR.*, X, 260, and *ZfHB.*, XII, 122, No. 27.—(4) כתאב אל[נוב א]לצלאה, Saadya's prayer book, which under the title כ' וגוב אלצלאה occurs also in a list of books from the Genizah (*REJ.*, XXXIX, 200, No. 39, and *JQR.*, XIII, 55, No. 91; see also above). Why this book was listed among the polemical works may perhaps be explained by the following suggestion. As is well known, Anan had abolished the traditional prayers and instituted Psalm verses instead, against which Saadya, as it seems, published a polemic.<sup>77</sup> A book concerning the prayers like that concerning the calendar, was therefore directed against the Karaites. However, this circumstance is not altogether clear, since Saadya after all polemizes against the Karaites in most of his writings.

Here the memorandum breaks off, which is to be regretted very much. As was noted already above, information is lacking in the first place concerning some further polemical works, such as were directed against Hiwi, Anan, Ibn Sakaweili, the כתאב אלתר, the כתאב אלרר, the ספר המועדים, עלי אלמתחאמל, the ספר הנלוי, which was directed against his later opponents. Then we miss the linguistic works, such as the אנרון, אללנה, the תפסיר אלסבעין אללפנה אלפרדה, the polemic work against Ben Asher, and perhaps also some other works. Nevertheless let us rejoice in the possession of the preserved fragment, which offers so many new data, and let us be thankful to the editor for the new beautiful gift which he offered us. Perhaps he will succeed in substantiating this list through new discoveries so as to dissipate finally the darkness still obtaining.

<sup>77</sup> See hereon my *Opponent*, p. 10 and 13. As to Anan's liturgy, see now Mann's very illuminating article in Neumark's *Journal of Jewish Law and Philosophy*, I, 329.

## THE STATUS OF LABOR IN ANCIENT ISRAEL

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### III

WE paused at the end of the last lecture at the consideration of one of the series of laws laid down for Israel, but which were gradually, in whole or in part, applied to the *ger*.

It remains to treat of the rest of that series. Before doing so however we cannot ignore the fact that we will over and over again meet with the EZRAḤ, who, we have already hinted, was not of Hebrew origin.

At a very early stage of Hebrew history, we find the law that the alien *ger*, if he complies with a certain condition "shall be as the *ezraḥ ha-areṣ*."<sup>1</sup>

It is necessary to know what the status of this *ezraḥ ha-areṣ* was, if we would measure the *ger*'s progress in the Commonwealth. The versions generally agree that he was the Israelite himself. In the *Pesaḥ* ordinance just cited, they render *ger* by *stranger* and *ezraḥ ha-areṣ*, by "one that is born in the land," evidently meaning Palestine. As the ordinance is stated to have been handed down in Egypt, it is difficult to see how they could have adopted such an expression, since, up to that time, not an Israelite of them all had been born in Palestine. The difficulty is not new. It has been encountered before and our endeavors must be directed to obtain as satisfactory a solution as possible. There are two forms of the term: *ezraḥ ha-areṣ* and *ezraḥ*. *Ezraḥ ha-areṣ* occurs but three times, while *ezraḥ* is found thirteen times. Of these thirteen

<sup>1</sup>Exod. 12.48.

instances, there are four, which are followed by added words, that may be termed explanatory. Once we have *ezrah mi-kem* (the *ezrah* among you), twice we have *ezrah bi-bene Yisrael* (the *ezrah* among the children of Israel) and the fourth time we have *ezrah be-Yisrael* (the *ezrah* in Israel).

The versions (A.V. and J.P.S.) agree in rendering *ezrah ha-areṣ* by *born in the land*. In their translations of the four instances in which *ezrah* is followed by a qualification they agree in the rendering *home-born*.

For the nine instances in which the *ezrah* stands by itself, the King James version has seven variant renderings: Homeborn, once; one of your own country, three times; one of your own nation, once; born in the land, once; born of the country, once; born among the children of Israel, once; born among them, once. The English and American Revisions and the J.P.S. version agree in uniformly rendering the word by *home-born* in all these nine instances.

The great probability is that *ezrah ha-areṣ* is the original form and that *ezrah* is merely a convenient abbreviation.

It is therefore specially important to fathom the origin of this *ezrah ha-areṣ*.

One noticeable feature is that the three instances in which it occurs are all connected with the celebration of the Exodus—the *Pesaḥ-maṣṣah* festival.

The historical setting of the narrative is that this festival was ordained on the day that Israel was to start on its journeying from the land of Egypt,<sup>2</sup> and that Israel did not go alone but was attended by a considerable group of non-Israelites, a group which must have been composed of Egyptians, whose discontent with conditions in their native land, impelled them to seek a way out, and who therefore resolved to become proselytes and to stake

<sup>2</sup>Exod. 12, 39, 51.

their fortunes on the future achievements of Israel. This accession to their numbers was probably looked upon as an advantage by the leaders of Israel. By the mass of the people it must have been viewed coldly if not with positive aversion. Otherwise the fact would be inexplicable, that this reinforcement is mentioned in the texts by two names, expressive of contempt: *'ereb rab*<sup>3</sup> and *asafsuf*,<sup>4</sup> both of which might fairly be rendered "the rabble." That so important an adjunct should have no other designation than these nicknames is barely conceivable. When it is remembered that, according to the narrative, Israel, though bound for foreign parts, had not yet left Egyptian territory, what more likely than the thought of calling these non-Hebrew Egyptians, natives of the land (Egypt) (*ezrah ha-areš*)? The only land they had yet touched was Egypt, in which they considered themselves outsiders, strangers, (*gerim*)<sup>5</sup> and there could be no plainer contradiction than between *foreigners* and *natives* (*gerim* and *ezrah ha-areš*). Moreover that so considerable a body of men should after the Exodus be spoken of but once and then in contemptuous terms is, to say the least, strange. What became of them?

The one occasion on which they are referred to, is full of interest. At an early stage of their journey, the Israelites came to think its hardships unendurable, and practically revolted against the Lord and against Moses. There is fair ground for believing that the brother and the sister of Moses, Aaron and Miriam, instigated the rebellion, being jealous of the predominance of their eminent brother.<sup>6</sup> However that may be, the movement was pretty general among the people.

When it collapsed, the crowd realized that it had blundered, and with the usual unfairness of crowds, sought

<sup>3</sup>Exod. 12.38.<sup>4</sup>Num. 11.4.<sup>5</sup>Exod. 22.20; 23.9; Lev. 19.34; Deut. 10.19; 23.8.<sup>6</sup>Num. 12.1-5

a scape-goat to cast the blame upon. The Egyptian group, being a minority, were, of course, fastened upon, and the *asafsuf* were charged with having incited and misled the people.<sup>7</sup> As has been said *asafsuf* was only a nickname. The versions treat it as equivalent to '*ereb rab*, on the theory that they were the original '*ereb rab* or their progeny. Rashi makes the same identification and so is the general opinion. The important implication of the narrative is that the *asafsuf* were of sufficient numbers and importance to sway the multitude in a movement of transcendent significance. And yet we never hear of them again.

Just as they unaccountably disappear, so do the *ezrah ha-areš* unaccountably appear. We are not told whither the former went, nor whence the latter came. That they must have been a group of recognized importance is plain from the fact that the *ger* are under certain conditions to attain a position equal to that of the *ezrah ha-areš*.

The common notion that they are the Israelites themselves must have originated from the circumstance that in fifteen of the sixteen passages in which they are mentioned, they are placed in *collocation* with the *ger* and that hence it was concluded that they were in *contradistinction* to the *ger*; and if this were so, the inference was easy that the *ezrah* was Israel.

To this theory, plausible as it seems, there are objections weighty, if not insurmountable.

There is the sixteenth instance, in which the *ezrah* is in no relation whatever with the *ger* because the latter is not even mentioned.

In the *Sukkot* ordinance of Leviticus<sup>8</sup> there is a command addressed to Israel in these words: "Ye shall dwell in booths seven days," and, the verse goes on, "all the *ezrah* in Israel shall dwell in booths," and the next verse

<sup>7</sup>Num. 11:1.

<sup>8</sup>Lev. 23:12.

explains the purpose: "that your generations may know that I made the children of Israel to dwell in booths when I brought them out of the land of Egypt. . . ."<sup>9</sup> Here the collocation is with Israel alone, and in order to identify the two, it must be assumed that the second half of the verse is a useless repetition of the first, and even if this were granted, we should still have to learn why in the second half, the whole body of Israel should be spoken of as being "in Israel," an expression which clearly implies a distinction of some kind between Israel and *ezrah*.

Doubtless this *Sukkot* ordinance originated in the very beginning of the nation. Hosea in the eighth century B.C. alludes to the custom of dwelling in *Sukkot* as having subsisted in hoar antiquity: "I will again make thee to dwell in tents, as in the days of the *Mo'ed*."<sup>10</sup> By *mo'ed* he means the festival of *Sukkot*.<sup>11</sup> In the Deuteronomic version of the *Sukkot* ordinance there is not a word about dwelling in booths. The custom was so rooted in the habits of the people, that no mention of it was necessary. In reciting the participants in the rejoicing before the Lord on that festival, there is nothing said of the *ezrah* who had doubtless been so completely assimilated that he is included in the "thou" addressed to the people of Israel. "Thy God" is his. They had become one.<sup>12</sup>

The implied distinction between Israel and *ezrah* in the *Sukkot* ordinance does not stand alone. There are three other passages which carry a similar implication. One of them speaks of the *ezrah mikkem* (the *ezrah* among you),<sup>13</sup> while the other two tell us of the *ezrah bi-bene Yisrael* (the *ezrah* among the children of Israel).<sup>14</sup>

We cannot, in the face of such evidence, escape the conclusion that the *ezrah* was originally a numerous body

<sup>9</sup>Ibid. 23.43.      <sup>10</sup>Hosea 12.10.

<sup>11</sup>Brown-Driver, Lexicon, p. 417, *sub voce* *Mo'ed* 1b; Deut. 31.10.

<sup>12</sup>Deut. 16.13-17.

<sup>13</sup>Lev. 19.34.

<sup>14</sup>Num. 15.29; Ezek. 47.22.

which finally entered into the composition of Israel, and that to render the word by Israel or its equivalent, in every text in which it occurs, will create error and confusion. There was a time when the *ezrah* became fully assimilated, and at this point the difficulty presents itself. While the *ezrah* before such complete assimilation was not identical with Israel, there was a great change after that event, and then the *ezrah* was sometimes included in the term Israel, and at other times the whole of Israel was designated by the term *ezrah*.

As the two kinds of *ezrah* are externally similar, it is not easy to determine which *ezrah* is in any particular case meant. The main factor in the decision must be the context—an appreciation of the circumstances and a common-sense conclusion therefrom.

The result of such an examination presents some curious features. Of the four cases in which the *ezrah* is accompanied by a qualifying phrase, there is one in which that phrase is probably due to a scribe's error.

The latter half of the fifteenth chapter of Numbers provides for the atonement of sins committed in error (*shegagah*), and declares that, the proper ceremonies being performed, "all the congregation of the children of Israel shall be forgiven, and the GER that liveth among them; for, in respect of all the people (*kol ha-'am*) it was done in error."<sup>15</sup>

The plain meaning of this is that the people of Israel (the 'Am) are composed of two elements, the *Bene Israel* and the *ger*. Of the division of the *Bene Israel* into component parts there is not a hint. And yet in the same connection, a few verses further on, it is provided that the priest shall make atonement for "the *ezrah* among the children of Israel, and the *ger* that liveth among them: ye

<sup>15</sup>Num. 15.26.



shall have one law for him that doeth aught in error."<sup>16</sup>

And continuing the theme, atonement is denied to him that sinneth with a high hand, whether he be *ezrah* or *ger*.<sup>17</sup>

There can be no question that the *ezrah* all through this half chapter is identical with Israel, and the conclusion follows that the added words "among the children of Israel" in the 29th verse are out of place and should be elided.

The three passages which use the expression *ezrah ha-areš* may fairly be counted as not referring to Israel. There is a special insistence that the *Pesah* shall be celebrated "by all the congregation of Israel"<sup>18</sup> and the institution is of so early a date and the expression *ezrah ha-areš* is at that stage so inept to describe Israel, that doubt on the subject may be dismissed.

There is however one circumstance which must be noted. The whole chapter mentions the *ezrah ha-areš* twice and while still dwelling on the same subject, once introduces simple *ezrah*.<sup>19</sup> This can only mean the *ezrah ha-areš* and cannot therefore be interpreted to mean Israel.

This leaves nine passages in which *ezrah* may fairly be said to stand for Israel. An examination of the context confirms this view of its meaning.

These are the passages:

Lev. 16.29, relating to the Day of Atonement.

17.15, relating to the prohibition against eating *nebelah* (that which dieth of itself).

18.26, relating to the observance of certain moral duties.

24.26, relating to the punishment of blasphemy.

24.22, establishing uniformity of law for *ger* and *ezrah*.

<sup>16</sup>Num. 15.29.

<sup>17</sup>Num. 15.30.

<sup>18</sup>Exod. 12.47.

<sup>19</sup>Exod. 12.49.

Num. 15.13, relating to meal offerings.

15.29-30, relating to sins committed in error  
(*shegagah*).

Josh. 8.33, describing Joshua's audience.

The result so far seems to be that the earliest mention is that in the *Sukkot* ordinance, in which the *ger* is not yet thought of, and in which the *ezrah* is viewed as distinct from the body of Israel. Ye (addressing Israel) are commanded to dwell in booths, to which there is the significant addition that "all the *ezrah* in Israel shall dwell in booths." This points to a time when the *ezrah* had reached the stage of believing himself to be an essential part of all Israel, but had not succeeded in convincing the bulk of Israel of that fact. The *ezrah*, at this *mo'ed* period might logically urge that he had accompanied Israel on its travels and had to dwell in booths like the rest. Why then should he be excluded from the celebration of that experience? At all events any effort at such exclusion was ineffective, made so by the specific ordinance not only allowing but commanding him to dwell in booths at the *Mo'ed*.

When we meet him next he is far advanced on the road towards assimilation but has not finally reached the goal. There is no longer a question about his right to celebrate the *Pesah*. That is assumed<sup>20</sup> and though there are a few later instances in which the distinction between him and the Israelite is recognized, yet this soon ceases. The word *ezrah* is not even mentioned by any of the prophets from Amos down save only by Ezekiel in one text and his use of it is merely literary and oratorical. It refers to no one in being but is a vision of a finer future based on past history.<sup>21</sup>

The change in the meaning of the word was in conformity to the general law that mutations in the life of

<sup>20</sup>Exod. 12, 18.

<sup>21</sup>Ezek. 47, 22.

the body are reflected in the career of the words designating it.

The mode here adopted is not new. The investigators of ancient times encountered the same difficulties and one of them, at least, treated them in a manner somewhat analogous.

About eighteen hundred years ago, the Syriac Targum (called the Peshitta) understood *ezrah* to mean Israel in eight of the sixteen passages. It can scarcely be a mere co-incidence that seven of these belong to the list of nine *Israels* given by us; the eighth (Num. 15.29) counted by us is excluded by the Peshitta. It is however not rendered by any other word, but is passed over evidently on the theory that its presence is due to an error in the text, while our ninth (Josh. 8.33) may well give rise to two opinions, though on the whole we prefer the rendering Israel.

The Peshitta's eighth Israel is Lev. 19.34. This is one of the four passages from which we infer that the *ezrah* were originally a separate, non-Israelite group. The Peshitta shies at such an inference but nevertheless is unable to find Israel in the other three and therefore practically elides the word from them. In this instance, however, the terrifying qualification *in Israel*, or *among the children of Israel* is lacking. Instead of an objectionable noun there is only a pronoun, *mi-kem* (*among YOU*) and it is encouraged to render the *ezrah* *among YOU* as Israel. Needless to say in such reasoning we cannot concur. If the Peshitta were right its translation would read, "the *Ezrah* (Israel) among *you* (Israel). . ."

The other eight passages which the Peshitta did not render by Israel it treats in three ways. In four it rendered by the equivalent of *yosheb ha-areṣ* (dweller in the land), in one by *Amora*, and in the remaining three it ignored the word and translated the sentence as if the word were not there.

While we may not agree with the Peshitta's procedure, its outstanding feature is the recognition of the fact that in half the instances of its use, the word *ezrah* does not mean Israel and it is therefore in advance of most moderns who seem to have sensed no difficulty in uniformly understanding it to refer to Israel.

Let us, however, examine in detail, the Peshitta's treatment of these eight non-Israelite passages.

It renders *yosheb ha-areṣ* four times. Probably the rendering was intended to parallel the Hebrew *ezrah ha-areṣ*. The latter expression occurs only thrice in the texts and of these three it translates one by 'Amora. It renders simple *ezrah* by *yosheb ha-areṣ* in two cases, one in Exodus 12.49 which we have above concluded stands for *ezrah ha-areṣ* and the other in Joshua 8.33 where, as we have above stated, a difference of opinion may well exist.

What the Peshitta exactly means by *yosheb ha-areṣ* is a matter that deserves careful examination. I have roughly conceived it to mean the conquered Canaanites, whom we in this investigation, have settled upon as the *ger* of the texts. If this supposition is justified, it would follow that the Peshitta's *ger* is not an important compact body like ours, but is composed of alien individuals who, from time to time, leave their former surroundings and become converts to Israel's religion.

There is, however, a clue to the Peshitta's meaning. In Number 9.14 it renders *ezrah ha-areṣ* not by *yosheb ha-areṣ* but by 'Amora. The definition of 'Amora is given as follows:

"Workman. In Syria the workman is called Amora."<sup>22</sup> As the Peshitta uses 'Amora as the equivalent of *yosheb ha-areṣ*, it seems fair to infer that it views the conquered

<sup>22</sup> *Neuhebräer, hebr. und chaldäer. Wörterbuch* by Prof. Dr. Jacob Levy, vol. 3, p. 665

Canaanites as a body of laborers, just as we have done, but calls them *ezrah* instead of *ger*. And this *ezrah* it seems to look upon as a body completely assimilated to Israel at the earliest period of the nation's history. In short it knows no real distinction between "the congregation of Israel" and the *ezrah ha-areš* of the Passover ordinance. The *ger* of that ordinance is for it, a casual stranger who has imbibed the notion that he would like to become a convert to Israel's religion.

The three passages in which the Peshitta refused to translate the word *ezrah* must have given the Targumist infinite trouble. He knew his plain duty to be to transfer the original text to its Syriac equivalent. In the Passover ordinance he had gone so far as to recognize the *ezrah's* incorporation in the body of Israel and in these three passages he was met by expressions which differentiated between *ezrah* and Israel. The notion that circumstances and therefore laws might have changed, in short that the Hebrew nation like others had been subject to the law of development, was to him not only inadmissible but impossible. For him the Canaanites—the *ezrah*—when conquered, immediately became attached to Israel's law and religion, and were indistinguishable from the main body.

Instead of solving the difficulty he evaded it, and, curiously enough, in doing so he practically adopted the favorite modern method of dealing with obstacles in the text of the Bible—namely, textual criticism. He may not have been fully conscious of the audacity of his procedure, but he none the less corrected the text by practically striking out the disagreeable words that bothered him.

Notwithstanding the impossibility of agreeing to all of his views, it has been a source of gratification to find

this early scholar reach conclusions with which, in the main, I agree.

In modern times too there have been dissents from the current notion that *ezrah* always means Israel.

Professor Reggio, of the Rabbinical College of Padua, Italy, makes the following remarks on the subject:

I have explained to you the meaning of *ger toshab* and *ger šedeḳ*. I now come to *ezrah*. This term is applied to all those who live in a country in which they have been born and in which their forefathers have been settled, no matter to what people or religion they belong. In this sense it is the opposite to *ger*. A clear proof of this explanation is the fact that the term is used for trees and plants which still stand on the ground on which they have grown (see Psalm 37. 35). Similarly Ḳimḥi in his Dictionary says that the *ezrah* is the old inhabitant of a city. Accordingly I believe that the Canaanites who remained in Palestine after the conquest of the land were called *ezrahim*. Wessely's statement (on Leviticus 16. 29) that *ezrah* only refers to Israelites, as many rabbinical statements also seem to imply, sounds very strange to me, since many verses do not bear this interpretation (see e.g. Numbers 9.14). After the Israelites came to Canaan the people were compelled to accept the seven Noahidic commandments and then were considered on the same level with *ger toshab*, the only difference being that they had remained in the country. If they were fully converted they would be on a plane with the *ger šedeḳ*.<sup>23</sup>

Needless to say I do not concur with much that Reggio says in this note, but consider it important to cite him because, great scholar as he was, he could not accept the general rendering of our word *ezrah*.

For all of the facts concerning the Peshitta, I am

<sup>23</sup>*Exegese des Targum* (Vienna, 1884-6), Vol. I, pages 52-53, Letter 8.

indebted to that great authority on the Syriac Targum, the Reverend Doctor Chayim Heller, who, learning of the work in which I was engaged, generously sent me a memorandum on the subject of which I have made free use. Needless to say that the Reverend Doctor is not responsible for the opinions and conclusions derived by me from the facts.

We are now ready to resume the main line of our discourse, and to examine the remaining instances of laws primarily intended for Hebrews and subsequently imposed upon the *ger*.

Immediately following the blasphemy statute with the consideration of which we ended the last lecture there is laid down a little code as follows:

He that smiteth any man mortally shall be put to death.

He that smiteth a beast mortally, shall make it good, life for life.

If a man maim his fellow ('*amito*); as he hath done, so shall it be done to him: breach for breach, eye for eye, tooth for tooth; as he hath maimed a man, so shall it be rendered unto him.

He that killeth a beast shall make it good.

He that killeth a man must be put to death.

Ye shall have one manner of law as well for the *ger* as for the *ezrah*.<sup>24</sup>

One may fairly ask why should such a monstrous crime as murder be denounced for *ezrah* (meaning Israel) and for *ger* when the general law governing Israel had made it a capital crime in terms that could not be misunderstood. A possible explanation may be that in the early times, the *ger* had certain community privileges, among them the right of judicial cognizance of crimes committed by

<sup>24</sup>Lev. 24.17-22.

their own members among themselves, and that the enactment in question contemplated the *ger's* assimilation to the Hebrew community and abolished such separate jurisdiction, so that like the Israelites themselves, the *ger* would be answerable to Israel's judicial tribunals—an enormous step in the advance towards equality.

In this little code the punishment for maiming was according to the law of retaliation.

In view of the fact that the general principle of Israelite law in case of personal injuries was otherwise, a question arises as to the reason for this seeming conflict of laws. The Israelite law regulating the punishment for personal injury was the payment of adequate money damages for the loss of the victim's time and for the cost of healing.<sup>25</sup> And this law was general, for it contemplated not only injuries inflicted with the fist, in the heat of passion, in a quarrel, but also injuries caused by a dangerous weapon, a stone, the use of which implies malice aforethought.

The provision that demands payment of the cost of healing implies that the injury is not permanent.

The *maiming* of this Levitical code evidently refers to an injury which cannot be healed, such as the loss of an eye or another member of the human body. Such an injury is technically termed *mum*. Then there is the probability that among the crude peasantry of Canaan, the infliction of such permanent injuries was often the purpose of the fighters, and severe measures were deemed necessary to overcome such a habit. It may be remarked, in passing, that even in modern times, there were places among the civilized nations, in which the gouging out of an adversary's eye was deemed to be fair fighting. In this connection a quotation from Webster's Unabridged (*sub voce* "Gouge") may not be out of place:



"Gouge—To force out, as the eye of a person, with the thumb or finger (U.S.).

The practice of *gouging* is said to have existed formerly in the interior of some of the Southern states, but was never known elsewhere, except by hearsay (Bartlett).

Gouging is performed by twisting the forefinger in a lock of hair, near the temple, and turning the eye out of the socket with the thumb nail, *which is suffered to grow long for that purpose* (Lambert)."

This little code so far as it provides for the punishment of homicide must be read with the Numbers statute which makes malice aforethought the indispensable ground for convicting a man of the capital offence of murder,<sup>26</sup> and thereby abolishes the *lex talionis* to that extent. If malice is absent, the homicide is reduced from murder to manslaughter and the punishment from death to internment in a separated city frequently called "city of refuge" (*'ir miḳlat*). This *'ir miḳlat* statute is expressly declared to be "for the *bene Yisrael*, for the *ger* and for the *toshab* in their midst,"<sup>27</sup> or as it is put in the Joshua text: "for *kol bene Yisrael* and for the *ger* who lives in their midst."<sup>28</sup>

The next instance of the class we are considering is the following:

Moses, at a particular period, was directed to speak to the children of Israel concerning certain duties which would devolve upon them after their settlement in Canaan. One of these duties referred to meal-offerings and drink-offerings and they are prescribed in adequate details.

<sup>26</sup>Num. 35, 22-29. See my *Ancient Hebrew Law of Homicide* (Philadelphia, 1915).

<sup>27</sup>Num. 35, 15. The distinction in this verse between *ger* and *toshab* is the only instance of the kind in Scripture. That there is some error or confusion in the text seems obvious. It is probable that the scribe's ms. read "for the *toshab*" and as the *sakir* was equally entitled to the benefit of the statute, he probably wrote in the margin "for the *ger*" in order to note that both *toshab* and *sakir* were included, and this gloss probably crept into the text.

The Joshua text is perfectly clear. It declares the separated cities to be for *kol bene Yisrael* and for the *ger*. The *toshab* is not mentioned.

<sup>28</sup>Josh. 20, 9.

Thereupon there is this additional provision:

"Every *ezrah* shall do these things after this manner. . . and the *ger* or whoever may be among you throughout your generations and will offer an offering made by fire. . . as you do, so shall he do."

"As for the congregation (*Kahal*) there shall be one (and the same) statute for you and for the *ger*, a statute forever throughout your generations; as ye are, so shall the *ger* be before the Lord. One law and one ordinance shall be for you and for the *ger* living with you."<sup>29</sup> Here the *ezrah* stands for Israel. The principle therein declared, though limited to this particular religious activity was couched in terms to make a profound impression on the general public, who, according to the custom of homogeneous communities, looked upon any new element introduced as inferior.

There were certain peculiarities in the wording of this addition which are worthy of attention. Its first word is *ha-Kahal* which J.P.S. renders: "As for the congregation." That this is not a satisfactory rendering needs no remark. Its great fault is that it conveys no idea. The probability is that it was a scribe's marginal note which has crept into the text and this seems to be the view of Bertholet.<sup>30</sup>

How the scribe came to write such a note may be plausibly explained. The word *Kahal* in reference to Israel, in the numerous instances in which it occurs, always means Israel alone without the infusion of any others.<sup>31</sup> Indeed the distinction between *Kahal* and *ger* is expressly declared when we are told that "there was not a word of

<sup>29</sup>Num. 15.2, 13-16.

<sup>30</sup>Bertholet, *Die Stellung der Israeliten und der Juden zu den Fremden*, p. 170, note 2.

<sup>31</sup>Exod. 12.6; 16.3; Lev. 4.13, 14, 21; Num. 10.7; 11.5; 16.3, 33; 17.12; 19.20; 20.1, 6, 10, 12, 22.1; Deut. 9.10, 10.4; 18.16; 23.2, 3, 4, 9; 33.4; 1 Kings 8.14, 22; 12.35; Jer. 26.17; Micah 2.5; 1 Chron. 13.2, 4, 28.8; 29.1, 10, 20; 2 Chron. 1.3, 5; 6.3, 12.13; 20.5, 23.3; 24.6, 28.14, 29.23, 28, 31, 32, 30.17, 23, 24, 25.

all that Moses commanded, which Joshua read not before *kol-kehal Yisrael* and the women and the little ones and the *ger* that walked among them."<sup>32</sup>

So also in the narrative of Hezekiah's great *Pesah* festival it is recorded that "*kol-kehal Yehudah*, and the priests, and the Levites, and *kol-ha-kehal* that came out of Israel, and the *gerim* that came out of the land of Israel and that dwelt in Judah rejoiced."<sup>33</sup>

The scribe who was copying our ordinance which declared itself to be *one statute* for you (Israel) and for the *ger* that liveth with you, which further declared that "as ye are, so shall the *ger* be before the Lord," and which emphasized these declarations by adding that "there shall be one and the same *Torah* and *mishpat* for you and for the *ger* living with you" might well exclaim: Behold, the *ger* has become incorporated into the *Kahal*! We have now an enlarged *Kahal*!

We may readily affirm his view and conclude that this ordinance contemplated the religious assimilation of the *ger* with Israel.

At this point we may note that *ger* is not mentioned in Ezra-Nehemiah, Ruth, Proverbs, Ecclesiastes, Song of Songs, Lamentations, Daniel and Esther, a significant indication that the distinction between him and the whole community of Israel, had, after the Return from Babylon, been ignored and forgotten.

The next ordinance to be considered is the statute providing for the atonement of the community or of the individual for certain violations of law committed by error or inadvertence (*shegagah*). If the fault be that of the congregation (*'edah*) a specific sin-offering is required, whereupon the priest makes atonement for the whole congregation of the *bene Israel* "and they shall be for-

<sup>32</sup>Josh. 8.35.

<sup>33</sup>2 Chron. 30.25.

given."<sup>34</sup> This effect is repeated in the next verse with an important addition thus: "And all the congregation of the children of Israel shall be forgiven and the *ger* living in their midst; it was the error of *kol ha-'am* (the whole people)."<sup>35</sup>

If the fault be that of an individual, the offering to be brought by him is specified, and the priest shall make atonement for him and he shall be forgiven. "The *ezrah* among the children of Israel and the *ger* that liveth in their midst; there shall be one law (Torah) for him that doeth aught in error."<sup>36</sup>

Just as in the previous ordinance the *ger* is considered to be part of the *Kahal*, so in this he is viewed as part of the *'Am*. And the *Bene Israel* and the *ezrah* are used interchangeably. They seem to fix the period at which the *ger* became fully assimilated, civilly and religiously.

There is, too, a statute which provides for purification from defilement by the dead. We may call this the statute of the Red Heifer. A whole chapter is devoted to it.<sup>37</sup> It was without doubt originally binding on Israelites only, but in the tenth verse the words "and unto the *ger* dwelling in their midst" follow the word "Israel," that being the only mention of the *ger* in the whole chapter. There could be no more intimate fusion of *ger* and Israelite than in such an ordinance looking to perfect ritual purity.

We may here pause a moment to consider an ordinance which belongs to an early period when the assimilation of the *ger* was not yet in sight. The carcass of an animal which died of itself (*nebelah*) was held to be unfit for the food of Israelites. It was an abominable thing.<sup>38</sup> Nevertheless, as in other times and climes there were those who violated the prohibition. Jeremiah denounces such sinners.<sup>39</sup> Notwithstanding the aversion with which the

<sup>34</sup>Num. 15.25.

<sup>35</sup>Num. 15.26.

<sup>36</sup>Num. 15.29.

<sup>37</sup>Num. chap. 19.

<sup>38</sup>Deut. 14.3, 21.

<sup>39</sup>Jer. 16.18.

idea of an Israelite's eating such a thing was viewed, express permission was granted to give it to the *ger* to eat, presumably as part of his food-wage.<sup>40</sup>

As the assimilation of the *ger* progressed there was a supplemental ordinance which reads thus: "Every person (*nefesh*) that eateth *nebelah* or *terefah*, among *ezrah* or among *ger* shall wash his clothes and bathe himself in water and be unclean until the even; then shall he be clean. But if he wash them not, nor bathe his flesh, then he shall bear his iniquity."<sup>41</sup>

Here we have the extremes of the assimilation progress of the *ger*. At first he is treated as a complete outsider religiously, while in the last instance, he is regarded as an intimate proselyte, who, if he fail to conform to the requirements, "must bear his iniquity," that is, must expect direct Divine punishment.<sup>42</sup>

The tithe of the third year is another instance showing the relation between the land-owner and the *ger*. This tithe must be specially set aside for the Levite, the *ger*, the *yatom* and the *almanah*, to whom it shall be for food.<sup>43</sup>

This provision is usually construed as a charitable gift to the poor. It is more probably a supplemental compensation for laborers in the land-owner's employ. We have in a previous lecture alluded to the fact that Levites were in the early days hired for wages to perform certain religious duties. Nothing is more likely than this: that we have here a list of several species of workers, who were entitled to these third-year tithes as a bonus, to use the language of our contemporaries.

This ordinance seems devoid of any religious signifi-

<sup>40</sup>Deut. 14.21.

<sup>41</sup>Lev. 17.15, 16. The expression "bear his iniquity," as has been suggested in the preceding Lecture, conveys Divine punishment for an offence committed by an Israelite. Here the *ezrah* (meaning the Israelite) and the *ger* are put in the same class in this regard.

<sup>42</sup>Exod. 28.43; Num. 18.22.

<sup>43</sup>Deut. 14.28, 29; 26.12, 13.

cance as regards the *ger*. He need not do anything nor refrain from doing anything. It is a civil matter, a regulation of the relations between employer and employees.

C. Besides the classes of cases of which we have hitherto treated, there is a third class which shows that on certain occasions of extraordinary solemnity in Israel, the *ger* were invited to be, and were, present as if they were an integral portion of the community.

When the end of Moses' life was near, he called a meeting of "all Israel"<sup>44</sup> and exhorted them to observe the words of the covenant and do them.<sup>45</sup> In oratorical style he addresses them by classes, "even all the men of Israel, your little ones, your wives and thy *ger* that are in the midst of thy camp from the hewer of thy wood unto the drawer of thy water; that thou shouldst enter into the covenant of the Lord thy God . . ." "which the Lord thy God maketh with thee this day."<sup>46</sup> "Neither with you only do I make this covenant and this oath, but *with him that standeth here with us this day*. . ."<sup>47</sup>

In his portrayal of the consequences that will follow Israel's non-observance of the law, Moses is still more emphatic in his recognition of the *ger* as an integral portion of the body of Israel. These are his words: "The *ger asher be-ķirbeka* shall mount above thee higher and higher; and thou shalt come down lower and lower. He shall lend to thee and thou shalt not lend to him; he shall be the head and thou shalt be the tail."<sup>48</sup> Just as we describe the individual body by saying "from head to foot," so he in portraying the corporate body uses the words "from head to tail." In both cases the thought is that the body may be characterized by its two extremes.

Again, Moses in his final charge to "the priests the sons of Levi" and to all the elders (*zeķenim*) of Israel<sup>49</sup>

<sup>44</sup>Deut. 29.1.

<sup>45</sup>Deut. 29.8.

<sup>46</sup>Deut. 29.9-11.

<sup>47</sup>Deut. 29.13, 14.

<sup>48</sup>Deut. 28.43, 44.

<sup>49</sup>Deut. 31.9.

directs them to read the Law once in every seven years, at the feast of Tabernacles "before all Israel in their hearing."<sup>50</sup> And thereupon he defines what he means by "all Israel."

"The men and the women and the little ones and thy *ger* that are within thy gates, that they may hear, and that they may learn, and *fear the Lord your God*, and OBSERVE TO DO all the words of *this law*, and that their children, who have not known, may hear, and learn to fear the Lord your God. . . ." <sup>51</sup>

And finally it is recorded that Joshua, in compliance with the direction of Moses "wrote there (in Mount Ebal) upon the stones a copy of the law of Moses. . . . And all Israel and their elders and officers, and their judges, stood on this side the ark and on that side . . . as well the *ger* as the *ezrah*. . . ." <sup>52</sup>

In a great chapter of the Holiness Code, fundamental moral laws for the governance of Israel are laid down, the violation of which was declared to have resulted in the downfall of the vanquished Canaanites and Moses summed it all up by saying: "Ye therefore shall keep My statutes and Mine ordinances and shall not do any of these abominations—the *ezrah* and the *ger* that live in your midst."<sup>53</sup> Here again, *ezrah* means Israel. It will be seen that the *ger* are no longer looked upon as strangers, but as fully accepted proselytes, forming a recognized portion of the Israelite religious community.

Ezekiel seems to look upon them in the same light.<sup>54</sup>

D. We are finally to consider the provisions made for the improvement of the *ger's* material condition and the consequent intellectual and spiritual advantage accruing to him.

Perhaps the most important improvement in the *ger's*

<sup>50</sup>Deut. 31.11.

<sup>51</sup>Deut. 31.12, 13.

<sup>52</sup>Josh. 8.32,33, 35.

<sup>53</sup>Lev. 18.26.

<sup>54</sup>Ezek. 14.7, 8.

material condition was produced by granting him rest from labor on the weekly Sabbath.

The tradition was uniform that this institution was of the greatest antiquity. The accepted belief that God himself rested on that day from the work of Creation attests this. Moreover when Israel's support in the wilderness was by manna which fell from Heaven, two portions fell on Friday in order to relieve the people from the work of gathering it on the seventh day.<sup>55</sup> Of the various texts commanding the observance of the Sabbath, only three contain any reference to the *ger*.<sup>56</sup> The others are addressed to Israel alone.<sup>57</sup>

And these three disclose peculiarities which merit attention. The first of them<sup>58</sup> addressed to Israel commands that on the seventh day "thou shalt not do any manner of work," with which the sentence might well have ended, but it goes on "thou, nor thy son, nor thy daughter, nor thy man-servant (*'ebed*) nor thy maid-servant (*amah*) nor thy cattle, nor thy *ger* that is within thy gates." That the mention of the slaves should be followed by the cattle may well give the impression that the sentence is finished, when, lo and behold! after the cattle come the free employees as if by an afterthought of later times.

The second of them<sup>59</sup> is likewise addressed to Israel and commands "On the seventh day thou shalt rest that thine ox and thine ass may have rest." After this care for the animals, there follows the additional ground "and the son of thy handmaid (*ben-amah*) and the *ger* may be refreshed "

The family are not mentioned, probably on the presumption that by the use of the second person the land-owner addressed would assume that his family was included.

<sup>55</sup>Exod. 16:22,23.      <sup>56</sup>Exod. 20:8-11; 23:12; Deut. 5:14.

<sup>57</sup>Exod. 16:26, 29; 31:13-16; 34:21; 35:2, 3; Lev. 19:3, 30; 23:3.

<sup>58</sup>Exod. 20:10.      <sup>59</sup>Exod. 23:12.



The third of them<sup>60</sup> has the same list as the first to wit: thou, thy son, thy daughter, thy man-servant (*'ebed*), thy maid-servant (*amah*), and then follow the ox, the ass, or any of the cattle. Only after these comes the *ger*. The most curious feature of this text is, however, what follows the *ger*, namely the purpose of this ordinance which is declared to be that "the *'ebed* and the *amah* may rest as well as thou." Not a word about the *ger*, just as if the sentence had been finished before he was introduced or thought of.

It is not an unreasonable inference that these three texts were originally addressed to Israel alone, and that the anxious care for the workman, slave and free, *'ebed* and *ger* was developed in the course of Israel's history.

To return now to our Sabbath-law prohibiting work by the *ger* on that day. It should be remarked that though the benefit of it was primarily material, in that it gave the workman a substantial interval of rest, thereby relieving the monotony, the dullness and the fatigue incident to unceasing physical labor of one sort, yet the advantage to the laborer in another aspect was even greater. The leisure afforded by the regularly recurring period of rest at short intervals, made it not only possible but inevitable that he should observe and to a certain degree imitate the habits and practices of his master's family and the result would follow that he would cultivate thoughts which in his previous condition would have been beyond his reach.

The command to the *ger* to abstain from work on Atonement day was another long step in advance.<sup>61</sup> The extraordinary solemnity surrounding its celebration stimulated reflection in a high degree. He saw his master deprived not only of food but of other ordinary indulgences

<sup>60</sup>Deut. 5.14.

<sup>61</sup>Lev. 16.29; Num. 29.7.

which seemed not only necessary but indispensable. There were moreover stately ceremonies conducted by the priests, which were well adapted to rouse curiosity and interest.<sup>62</sup>

So too the Day of Memorial (now called *Rosh ha-Shanah*<sup>63</sup>), the day of the blowing of the horn (the *Shofar*), could well rouse emotions and implant ideas concerning a man's being and his future.

Less grave than these solemn occasions was the *Pesaḥ-Maṣṣot* festival. While the Hebrews called the *Maṣṣot* (unleavened bread), the bread of affliction,<sup>64</sup> the fact that the festival celebrated the rise of the nation gave it a joyful color which mere nicknames could not overcome. While the *ger* was free to join in the *Pesaḥ* ceremonies, he was also free to refrain. The choice was his.<sup>65</sup> During the *Maṣṣot* festival, however, he was bound to abstain from eating leaven<sup>66</sup> and the probability is that so far from being conscious of any affliction he enjoyed it, while drinking in from his surroundings historical memories in which it is true he had no part, but which nevertheless tended to raise his intellect to a higher plane. When a mere yokel loses sight for a time of the insistent present and dwells even with bare superficiality on a past replete with great deeds, he imbibes ideas which spiritualize his whole being.

Hebrew life though essentially solemn was not monotonously so. There was a joyous side and the *ger* reaped the full benefit of it.

At the gathering of the first fruits of the wheat harvest there was a great holiday,<sup>67</sup> the feast of weeks (*Shabu'ot*). Naturally there were impressive ceremonies<sup>68</sup> but these were coupled with the injunction to go up to the religious capital with the family, the slaves, the Levite and the *ger*, *yatom* (fatherless) and *almanah* (widow) and there rejoice

<sup>62</sup> Lev. 16, 32-34, 23, 27-32.

<sup>63</sup> Lev. 23, 24; Num. 29, 1.

<sup>64</sup> Deut. 16, 3.

<sup>65</sup> Exod. 12, 48.

<sup>66</sup> Exod. 12, 19.

<sup>67</sup> Exod. 34, 22.

<sup>68</sup> Lev. 23, 16-21.

before the Lord thy God.<sup>69</sup> And this rejoicing was not to be merely rhetorical or spiritual. There were to be feasts: "Thou shalt eat there."<sup>70</sup> And the practice conformed to the ordinance.<sup>71</sup>

And the "Feast of Ingathering at the end of the year, when thou gatherest in thy labors out of the field"<sup>72</sup> partook of this same frolicsome nature. This is the Festival known as *Sukkot* (Tabernacles),<sup>73</sup> one of the most jovial features of which was, doubtless, a great army of paraders bearing branches of palm-trees, willows of the brook and other plants. Even if the *ger* were not admitted to join in the procession, they doubtless enjoyed looking at it, as we know from the habits of people of our own time. Needless to say there were abundant ceremonies besides.<sup>74</sup> Here too all the householder's dependents, his family, his slaves, the Levite, the *ger*, the *yatom* and the *almanah asher bi-she-'areka* were to be altogether joyful."<sup>75</sup>

In order to complete this branch of our inquiry, it will be necessary to cite the general principles laid down for the treatment of the *ger* as well as the special regulations made in his behalf. The most important of these practically was the protection of the *ger* in his right to adequate wages or other compensation.

"A *ger* thou shalt not wrong, neither shalt thou oppress him."<sup>76</sup> In view of the relations of the *ger* with his employer, the wrong and the oppression here spoken of can mean nothing else than exacting an undue amount of work or whittling down the compensation for it so as to render it inadequate.

The farmer may not go back to recover a sheaf forgotten in the harvest. It is for the *ger*, the *yatom* and the *almanah* nor is he allowed to go again over the boughs of

<sup>69</sup>Deut. 16.11.

<sup>70</sup>Deut. 14.23-27; 27.7.

<sup>71</sup>1 Sam. 11.15.

<sup>72</sup>Exod. 23.16.

<sup>73</sup>Lev. 23.34, 39-43.

<sup>74</sup>Nehem. 8.1-18; Num. 29.12-39.

<sup>75</sup>Deut. 16.15.

<sup>76</sup>Exod. 22.20; 23.9; Lev. 19.33.

the olive-trees. What is left also goes to the *ger*, the *yatom* and the *almanah*, and the like disposition is made with respect to the gleaning of the vineyard.<sup>77</sup>

In the parallel passages of Leviticus, the provision is that the corner of the field must not be reaped, nor the gleaning of the harvest or the vineyard gathered. They belong to the *'ani* and the *ger*.<sup>78</sup>

In still another Levitical passage only the corner of the field and the gleaning of the harvest are mentioned and these are to be for the *'ani* and the *ger*.<sup>79</sup>

We have here three kinds of disposition of the farmer's remainders after the collection of his produce. The first specifies in more detail the several species to be distributed and awards them to *ger*, *yatom* and *almanah*, the second omits the olive-trees but names the other species, while the third omits not only the olive-trees but the vineyard. Then too the first names as beneficiaries the *ger*, the *yatom* and the *almanah* while the second and third omit the *yatom* and the *almanah* but add the *'ani*.

These variations lead to the inference that at the time of the first ordinance, the order of Hebrew workmen called *'ani* had not yet been regarded as a class by themselves; but that the bulk of the agricultural work was done by the non-Hebrew classes to wit, the *ger*, the *yatom* and the *almanah*, that these being settled on the land indefinitely, were not paid wages, but received their support in kind which was supplemented at harvest time by what their employers doubtless called a gratuity in the nature of the bonus so anxiously looked for by the workmen of our own day.

The inference from the second and third ordinances is that the *ger* therein named was used as a general term to include the *yatom* and the *almanah* of a deceased *ger*,

<sup>77</sup> Deut. 24.19, 20, 21.

<sup>78</sup> Lev. 19.9, 10.

<sup>79</sup> Lev. 23.22.

which words were therefore omitted, while the Hebrew workmen, the *'ani* had so increased as to form a class by themselves who were admitted to share in the bonus.

The wages of a *sakir* shall not abide with thee all night until the morning.<sup>80</sup>

The product of the seventh or fallow year shall be for food of the land-owner and of all his dependents including his *sakir* and his *toshab*.<sup>81</sup> Moses, in his charge to the judges enjoins upon them to judge righteously between a man and his *ger*. The great probability is that the questions arising between these two classes referred to quantum of labor or of compensation.<sup>82</sup>

At the end of every three years the land-owner was ordered to lay up the tithe of his increase and this belonged to the Levite, the *ger*, the fatherless and the widow, all, in one sense or another, employees of the owner.<sup>83</sup>

The prophets, Jeremiah,<sup>84</sup> Ezekiel,<sup>85</sup> and Malachi,<sup>86</sup> especially the latter, were insistent upon obedience to these requirements. The general principles, illustrative of these regulations were emphatic.

The leading one was enunciated in several specific cases:

When the punishment for various offences was laid down, the pronouncement with which the little code concluded was:

"One *mishpat* shall be for you, as well for the *ger* as for the *ezrah*.<sup>87</sup>

When the *Pesah* of the second month was instituted the doctrine was repeated in words nearly similar.<sup>88</sup>

And the like occurred in respect to offerings<sup>89</sup> and to the atonement for sins of inadvertence.<sup>90</sup>

The persistent repetition of this declaration undoubt-

<sup>80</sup>Lev. 19.13; Deut. 24.14, 15.

<sup>81</sup>Lev. 25.6.

<sup>82</sup>Deut. 1.16; 24.17; 27.19.

<sup>83</sup>Deut. 14.28; 29; 26.12, 13.

<sup>84</sup>Jer. 7.6; 22.3.

<sup>85</sup>Ezek. 22.7, 29.

<sup>86</sup>Mal. 3.5.

<sup>87</sup>Lev. 24.22.

<sup>88</sup>Num. 9.14.

<sup>89</sup>Num. 15.16.

<sup>90</sup>Num. 15.29.

edly gave it the effect of a principle generally applicable. The fact that it failed of universal effect is attested by the speeches of the prophets. This, however, need not surprise us. Ancient men were much like moderns. In their day as in ours, natives looked upon themselves as superior to men of other nations, and even in their most liberal moods, exhibited as against them, a certain condescension. This trait too was heightened and exaggerated then as now when the others were inferior in prosperity and social standing.

These mighty efforts to produce unity between Israel and the *ger* were further strengthened by such declarations as these:

"Thou shalt love him (the *ger*) as thyself; for ye were *gerim* in the land of Egypt."<sup>91</sup>

"He (the Lord) loveth the *ger* in giving him food and raiment. Love ye therefore the *ger*; for ye were *gerim* in the land of Egypt."<sup>92</sup> The effort was to remind the superior that in his origin, he was as humble as the class he wished to look down upon.

While naturally the object was not fully attained, there was undoubtedly created a higher and purer sentiment regarding the relation between Hebrew employer and non-Hebrew employed.

We have now reached a point where we shall feel at liberty to assume that the *ger* were a large population of Palestinian natives who, by the conquest, lost their lands and became employees in the service of the conqueror.

We shall next proceed to ascertain whether there were other classes of non-Hebrew laborers; and this brings us back to our starting-point, the classification of *ger* with *yatom* and *almanah* (fatherless and widow) which we shall proceed to consider in the next Lecture.

<sup>91</sup> Lev. 19: 34.

<sup>92</sup> Deut. 10: 18, 19.

## IV

THE frequent collocation of *ger* with *yatom* and *almanah* started our whole inquiry. The accepted notion that they were classed together because they all needed the kindness and charity of the public seemed inadequate.

The result of the inquiry so far has been that we have collected evidence enough to establish the fact that the *ger* were a large class, that they were the conquered inhabitants of Palestine, and that the majority of them had remained on the land as feudal employees of the conquerors. That these so settled were called *toshabim*, *ger-toshab*, or *ger we-toshab*. That the minority not so settled became *sekirim* or wage-earners. To speak of a large population of industrious laborers as objects of charity is merely absurd.

Then what is the meaning of the collocation of *ger*, *yatom* and *almanah*? If their being classed together gives them certain leading characteristics in common, it would seem that the *ger's* leading characteristic, to wit, being a laborer, might inhere also in the *yatom* and the *almanah*, however fantastic such a view might at first appear.

In every instance where the locution is used, it is quite consistent with such a view, especially when we consider that the peasant *gerim* were landless and were dependent on their compensation for the support of their families. When such a *ger* died, what was to become of his widow and children? The interest of the land-owner would be to oust them from their cottage and to put in their place a strong man capable to do what the decedent had done.

The humanitarian policy of the state would have been defeated if the land-owner had been allowed to consult his pecuniary interest only. The best that could be done was to leave the family in their place and set them to work doing as much as possible. This was probably a fair proportion of what had been done before, since doubtless the *ger* had been assisted in his work by his wife and such of his children as were old enough to help. The case of Ruth shows that the practice of women to work in the field was well established. Boaz, in addressing her, said: "Go not to glean in another field, but abide here fast by my maidens. Let thine eyes be on the field that they do reap, and go thou after them."<sup>1</sup>

And that children would be compelled to work appears plainly from Job's bitter speech against the avaricious rich, however exaggerated its terms.<sup>2</sup>

Our *ger*, *yatom* and *almanah* are coupled together in at least sixteen instances which may be divided into five classes. Six of them refer to the oppression of laborers by their employers, five speak of their participation in the fruits of the soil, two of their joinder with other employees in great celebrations by their masters, two enjoin on the judges the duty of disregarding differences of status among litigants and commanding them to do justice to laborers and the sixteenth is a Divine fiat announcing that Heaven itself takes special care of *yatom*, *almanah* and *ger*.

I The first class of six are these:

- a) "The *ger* thou shalt not wrong (*lo tonch*) nor oppress him (*lo til'asenu*)      *Kol almanah we-yatom ye shall not afflict* (*lo te'annun*)."<sup>3</sup>

<sup>1</sup>Ruth, 2:8-9.

<sup>2</sup>Job, 31:13-17.

<sup>3</sup>Exod. 22:20, 21.



b) Jeremiah speaking at the gate of the Temple says:

"Do justice between a man and his *rea'* (the versions render: neighbor, but the meaning here is his Hebrew employee); do not oppress (*lo ta'ashoku*) *ger*, *yatom* and *almanah*."<sup>4</sup>

c) Jeremiah, under instruction, addresses the King in these words:

"Execute ye justice and righteousness, and deliver the spoiled (*gazul*, robbed) out of the hand of the oppressor (*'ashok*), and do no wrong (*al-tonu*), do no violence (*al tahmosu*) to the *ger*, *yatom* and *almanah*."<sup>5</sup>

d) Ezekiel, inveighing against the princes (*nesiim*) of Israel charges them with grave crimes, among them these: "They have dealt by oppression (*'asu be-'oshek*) with the *ger*; they have wronged (*honu*) *yatom* and *almanah*."<sup>6</sup>

e) Zechariah, harping on the same subject says: "Do not oppress (*al ta'ashoku*) the *almanah* and *yatom*, the *ger* and the *'ani*."<sup>7</sup>

f) And finally Malachi closes the prophetic era by denouncing "those that oppress (*'oshekim*) the *sakir* in his wages, the *almanah* and the *yatom* and turn aside the *ger* from his right (*matte ger*)."<sup>8</sup>

In these six passages denouncing oppression five words are used. Their basic forms are: *'ashak* in five of the texts, *honah* in three, and *'innah*, *lahas*, and *hamas* each in one. They all signify the ill-treatment of one by another, oppression. There might be room for speculation as to what kind of oppression may be referred to. Fortunately, the Malachi text solves the problem, by the specific statement that the *'oshek*, the oppressor, is wronging the employee, the *sakir* in respect to his wages. The inference

<sup>4</sup>Jer. 7.5, 6.

<sup>5</sup>Jer. 22.3.

<sup>6</sup>Ezek. 22.7.

<sup>7</sup>Zech. 7.10.

<sup>8</sup>Mal. 3.5.

is obvious that the other classes mentioned with the *sakir* are fellow-employees and that in that relation they are the victims of ill-treatment by their employers.

The dictionaries lay especial stress on the idea of extortion involved in '*ashak*,'<sup>9</sup> or as the Hebrew with brutal frankness calls it "robbery" (*gazul*) and on the idea of ill-treatment of the poor and weak involved in *honah*,<sup>10</sup> and these are the two words running through all these passages.

Oppression as between employer and employee would likely be of two kinds, overworking and under-payment. Needless to say, a cruel master might be guilty in both respects. In the case of the *sakir* there might be an additional mode of oppression. He was the only laborer who was to be paid a daily wage at sundown. The law is imperative: "The wages of a *sakir* shall not abide with thee all night until the morning."<sup>11</sup> "In the same day thou shalt give him his hire, neither shall the sun go down upon it."<sup>12</sup> An avaricious master would violate this law, just as selfish and inconsiderate men violate other laws.

II. Next to this series of six passages are five, in which the *ger*, *yatom* and *almanah* are made to participate in the fruits of the soil<sup>13</sup> and following these five are:

III. Two passages which represent the *ger*, the *yatom* and the *almanah* as enjoying, with other employees, great national and religious celebrations, all under the charge of their employers.<sup>14</sup>

The seven passages of these two series have been sufficiently considered in the previous Lecture and need not be repeated here.

IV. We have, next, the two passages which enjoin the duty of disregarding differences of status among men. They are these:

<sup>9</sup>Brown Driver, *Hebrew and English Lexicon*, p. 798.      <sup>10</sup>*Ibid.*, p. 313.  
<sup>11</sup>Ex. 19:13.      <sup>12</sup>Deut. 24:15.      <sup>13</sup>Deut. 14:29; 24:20, 21; 26:12, 13.  
<sup>14</sup>Deut. 16:11, 14.

"Thou shalt not pervert the justice due to the *ger*, *yatom* (*mishpat* *ger yatom*) nor take the *almanah*'s raiment to pledge."<sup>15</sup>

"Cursed be he that perverteth the justice due to *ger-yatom we-almanah*. . ."<sup>16</sup>

and finally we have this passage:

V. "He (the Lord) doth execute justice (*'oseh mishpat*) for the *yatom* and the *almanah* and loveth the *ger* in giving him food and raiment."<sup>17</sup>

An attentive consideration of these sixteen passages discloses a certain historical order showing the stages at which the various classes of laborers among the Hebrews were formed.

At first, that is, as soon as the natives had been subjected to the loss of their land and the bulk of them had become a settled peasantry under their new masters, the texts are confined to the *ger*, *yatom* and *almanah* alone without thought of any other class. There was urgent need for their protection and there were prompt measures to secure it for them.

These texts are found in four verses only. In the verse which represents God as speaking for justice and love to them no other class is mentioned. This is the text which has just been cited at length.<sup>18</sup>

One of the texts which provides for a supplemental compensation in addition to the ordinary reward given to working-people is composed of three verses: the first of them directs that a forgotten sheaf may not be gone after by the farmer but must be left for the *ger*, *yatom* and *almanah*,<sup>19</sup> the second imposes on the farmer the same duty of abstention after beating his olive-trees and reserves what remains thereon for the *ger*, *yatom* and *almanah*,<sup>20</sup>

<sup>15</sup>Deut. 24.17.

<sup>16</sup>Deut. 27.19.

<sup>17</sup>Deut. 10.18.

<sup>18</sup>Deut. 10.18.

<sup>19</sup>Deut. 24.19.

<sup>20</sup>Deut. 24.20.

while the third has an analogous provision in the gleanings of the vineyard.<sup>21</sup>

Though these are three separate verses in each of which the same beneficiaries of the farmer's abstention are named, they are in reality but one ordinance, inculcating one duty, namely, the duty of giving to the laborers whose active work contributes greatly to the increase of the produce, an extra gratuity which has a tendency to cheer and exalt them.

The result reached from a consideration of all the passages may fairly be said to be that the *yatom* and the *almanah* when mentioned as pendants to the *ger*, are not Israelites, but are the *ger's* (the non-Hebrew's) widow and children, who after the father's death were allowed to remain where they had always been, on condition of course that they should become employees in his stead. This conclusion however does not negative the idea that there are texts which speak of the *yatom* and *almanah* of Hebrews.

When the Hebrew widow had no child, the death of her husband practically threw her back on her father or his family.<sup>22</sup> If, however, she had a child, the husband's land descended and the widow and children remained on it as before. The *gebul almanah*<sup>23</sup> is referred to as well as the prohibition against trespassing on the fields of the *yatom*.<sup>24</sup> So too the avaricious men are described by Job as being alert to drive away the ass of the *yetomim* and to take the *almanah's* ox for a pledge.<sup>25</sup> With a fundamental law which aimed at equality of land-ownership by individuals, the invasion of the neighbor's land by crossing the boundary line (*gebul*) or by obliterating it so as to seize a portion of the neighbor's land was a heinous offence: "Thou shalt not remove thy neighbor's land-mark (*gebul*)"<sup>26</sup> is a stern prohibition which is drastically strengthened by

<sup>21</sup>Deut. 24. 21.<sup>22</sup>Lev. 22. 13.<sup>23</sup>Prov. 15. 25.<sup>24</sup>Ibid. 23. 10.<sup>25</sup>Job. 24. 3.<sup>26</sup>Deut. 19. 14.

the *Arur*-code: "Cursed be he that removeth his neighbor's (*gebul*) land-mark."<sup>27</sup> Hosea, denouncing the princes of Judah, finds nothing more degrading to characterize them than likening them to those "that remove the land-mark."<sup>28</sup> Proverbs too repeats the accepted view: "Remove not the ancient land-mark which thy fathers have set."<sup>29</sup>

The Hebrew *yatom* and *almanah* were therefore not objects of charity in general. They did need protection, however, against the greed of wily land-grabbers who were ever ready to take advantage of the helplessness not only of unsophisticated persons suddenly thrust into a position of responsibility without adequate preparation, but of those land-owners whose management of their farms was not efficient enough to assure their ability to hold them permanently. Doubtless the current philosophy and morality of the avaricious was satisfactory to their class as it has been from that day to this: The fittest survive. Whoso fails should abandon the task and serve others who can do better, and so on and so on.

The prophets did not see eye to eye with them. Amos thunders against them: "They sell the innocent for silver and the *ebyon* for a pair of shoes. They pant after the dust of the earth on the head of the *dallim* and pervert the right of the humble (*'anawim*)."<sup>30</sup> Isaiah, somewhat later (8th century B.C.), is specific in his denunciation of their efforts to gain a monopoly of the land:

"Woe unto them that join house to house,

That lay field to field,

Till there be no room, and ye be made to dwell

Alone in the midst of the land!"<sup>31</sup>

and Micah (724 B.C. and later) does the same.

"Woe to them that devise iniquity

And work evil upon their beds:

<sup>27</sup>Deut. 27.17.

<sup>28</sup>Hosea 5.10.

<sup>29</sup>Prov. 22.20.

<sup>30</sup>Amos 2.7.

<sup>31</sup>Isa. 5.8.

When the morning is light, they execute it,  
 Because it is in the power of their hand.  
 And they covet fields, and grab them; (*gazalu*)  
 And houses, and take them away;  
 They oppress a man and his house (family)  
 Even a man and his heritage (*nahalah*)."<sup>32</sup>

After the provisions for securing the *ger*, *yatom* and *almanah* there is another stage which introduces alongside of them a new class of beneficiaries, namely the Levite class. This disposition is made in three verses, the first of them providing that the tithe of the third year, shall be disposed of as subsidiary compensation to "the Levite, the *ger*, the *yatom* and the *almanah* that are within thy gates" (*asher bi-she'areka*),<sup>33</sup> the second of them directing that the rejoicing on the Feast of Weeks at the national sanctuary thereafter to be established, shall be by the employer and his family, by his slaves, by "the Levite that is within thy gates" and by "the *ger*, the *yatom* and the *almanah* that are in the midst of thee" (*asher be-ḳir-beka*),<sup>34</sup> and the third of them laying down a similar rule for the celebration of the Tabernacle festival the beneficiaries of which are to be the same as those named for the Feast of Weeks, namely, the employer and his family, his slaves "and the *Levite*, the *ger*, the *yatom* and the *almanah* that are within thy gates."<sup>35</sup>

We have in a previous lecture referred to the case of the Ephraimite Micah who employed a Levite of the *mishpahah* of Judah to be his *ab* and his *kohen* promising to pay him for this service ten pieces of silver by the year and a suit of apparel and his victuals. And on these terms the bargain was concluded. The narrative is of great antiquity. Though the facts as told were shocking to the sensibilities of the compiler, he recited them fully.

<sup>32</sup>Micah 2.1, 2.<sup>33</sup>Deut. 14.19.<sup>34</sup>Ibid. 16.11.<sup>35</sup>Deut. 16.14.

The chapter in which the narrative occurs is well worth reading.<sup>36</sup>

It shows why the Levites like the *ger*, the *yatom* and the *almanah* are located *bish'areka* or *be-kirbeka* (*within thy gates* or *in thy circle*). They are all resident on the estate of the owner in whose employ they are. A widespread notion that these words refer to residence in Israel at large, is clearly inept. They point directly to the land of an individual and relate to persons under his control.

When a central sanctuary was established, perhaps at Shiloh, a new governmental policy was instituted. The sanctuaries on private estates were to be discontinued. They were an obstacle to the unity of the state and moreover tended to perpetuate pagan practices.

The measure designed to abolish them was the institution of a system of pilgrimages to the central sanctuary. There were to be three of these pilgrimages in every year, one on *Pesah*, the next on *Shabu'ot* and last and greatest of all, the one on *Sukkot*.<sup>37</sup> Though the ordinances commanding these pilgrimages were doubtless observed, the result was not what had been hoped for. When the owners of the private sanctuaries with their retainers returned home, many of them adhered to their ancient customs and consulted their Levites as of yore.

To overcome this, inducements were offered to the Levites coming from these estates to remain at the central sanctuary, which movement, if successful, would finally cause the local sanctuaries to wither away and in the end perish from inanition.

The ordinance on this subject was well adapted to effect the purpose. It is as follows:

"And if (when) a Levite come from any of thy gates

<sup>36</sup>Jud. chap. 17.

<sup>37</sup>Exod. 23.14-17; 34.23; Deut. 16.16; 1 Kings 8.2, 65; 2 Kings 23.23; Neh. 8.18; 2 Chron. 7.8, 9.

(*me-ahad she'areka*) out of all Israel, where he lives (*gar sham*), and come with all the desire of his soul unto the place which the Lord shall choose; then he shall minister in the name of the Lord his God, as all his brethren the Levites do, who stand there before the Lord. They shall have like portions to eat, *beside that which is his due according to the fathers' houses*" (*'al ha-abot*).<sup>38</sup> This is the J.P.S. version. A. V. renders the last phrase "that which cometh of the sale of his patrimony," and this translation is adhered to by the English and American Revisions.

That all these renderings are inadequate seems clear. What the ordinance really meant was, that the local Levites who would remain at the central sanctuary, were allowed to do so without abandoning their local position and emoluments. Many would have dreaded the change, if it involved the loss of what they had, because of the fear that their position at the central sanctuary would be uncertain, and that if they should be deprived of it, they would be turned loose upon the country and be compelled to wander round in order to obtain proper places.

Hence, the provision that they should retain what they had at home namely "that which belonged to the *abot*," the latter word meaning the country Levites themselves. It will be remembered that Micah employed his Levite as *Kohen* and as *Ab*.<sup>39</sup>

We may now close the discussion concerning the *ger*, *yatom* and *almanah*, in the belief that their position as laborers of non-Hebrew origin has been sufficiently established.

It behooves us now to inquire concerning the existence of Hebrew labor-classes.

Our information on this point is derivable from observing the texts relating to *ger*, *yatom* and *almanah* in order

<sup>38</sup>Deut. 18:6, 7, 8.

<sup>39</sup>Jud. 1:10.



to learn whether, associated with these, there are other classes of persons who are laborers like themselves, and if there are such, whether they differ from the *ger* in that they are of pure Hebrew blood. The sixteen instances which speak of the *ger*, *yatom* and *almanah* are, as has been said, divisible into five classes:

Of the first class referring to oppression of *ger*, *yatom* and *almanah* by their employers there are six, and five of these are connected with other terms denoting classes of persons in the same category as themselves, to wit, free laborers.

Following the order just adopted we find that the first of the six texts, to wit, Exodus 22.20, 21, associates the following classes:

The '*ani* '*immak* (which I would render, the '*ani* in thy employ),<sup>40</sup> thy '*rea*',<sup>41</sup> the '*dal*'<sup>42</sup> and the '*ebyon*'.<sup>43</sup>

The second of these six texts, Jeremiah 7.6, is accompanied by the '*rea*'.<sup>44</sup>

The third of them, Jeremiah 22.3, is associated with the '*rea*'<sup>45</sup> and with the '*ani we-ebyon*'.<sup>46</sup>

The fourth of them, Ezekiel 22.7, is followed by the '*rea*'<sup>47</sup> and by the '*ani we-ebyon*'<sup>48</sup> while.

The fifth of them, Zechariah 7.10, utters *ger*, *yatom*, *almanah* and '*ani* in one breath.

The sixth, Malachi 3.5, adds none of these terms, but introduces the '*sakir* in the same sentence with the *ger*, *yatom* and *almanah*.

These terms for persons in a position similar to the *ger*, *yatom* and *almanah* are not fanciful superfluities. They denote a substantial distinction, which is, that the '*ani*', the '*rea*', the '*dal*' and the '*ebyon*' are Hebrews, while the others are the native Canaanites and their progeny,

<sup>40</sup>Exod. 22.24.

<sup>41</sup>*Ibid.* 22.25.

<sup>42</sup>*Ibid.* 23.3; 30.15.

<sup>43</sup>*Ibid.* 23.6, 11.

<sup>44</sup>Jer. 7.5.

<sup>45</sup>*Ibid.* 22.13.

<sup>46</sup>*Ibid.* 22.17.

<sup>47</sup>Ezek. 22.12.

<sup>48</sup>*Ibid.* 22.29.

who have become laborers for their Hebrew conquerors. There are some valuable hints favoring this conclusion scattered through the texts, e.g.: If thou lend money to any of *My people* even to the '*ani* '*immak*,<sup>49</sup> thy brother, thy '*ani*, thy *ebyon*;<sup>50</sup> the *ebyonim* of thy people;<sup>51</sup> an *ebyon*, one of thy brethren;<sup>52</sup> thy brother, the *ebyon*.<sup>53</sup>

"Thou shalt not respect the person of the *dal*, nor favor the person of the mighty; but in righteousness shalt thou judge thy fellow" ('*amileka*) ('*amit* wherever it occurs refers to a fellow-Israelite).<sup>54</sup>

The *dallim* of the '*Am* (referring to Israelites).<sup>55</sup>

As regards the *rea* there can be no doubt the word is in direct contrast with *ger* which refers to the non-Israelite. Its use for Israelite is exemplified in the following: "Thou shalt not go up and down as a tale-bearer among thy people, neither shalt thou stand idly by the blood of thy *rea*'. . . Thou shalt not hate thy brother in thy heart; thou shalt surely rebuke thy '*amit*. . . Thou shalt not take vengeance, nor bear grudge against the children of thy people, but thou shalt love thy *rea*' as thyself. . ."<sup>56</sup>

Note that later on in the same chapter, there is exactly the same wording with reference to the *ger*: Thou shalt love him as thyself.<sup>57</sup>

The *sakir* whom Malachi mentions in addition to the *ger*, *yatom* and *almanah* had a rather complicated history. At first he was a mere sub-division of the *ger*; later on a class of Hebrew *sekirim* arose and the *ger sakir* and the Hebrew *sakir* existed side by side.<sup>58</sup> Probably by Malachi's time (he was about 300 years later than Amos) the distinction between the two classes had become obliterated and all the *sekirim* were regarded as of genuine Hebrew stock.

<sup>49</sup>Exod. 22.24.

<sup>50</sup>Deut. 15.11.

<sup>51</sup>Exod. 23.11.

<sup>52</sup>Deut. 15.7.

<sup>53</sup>Deut. 15.9.

<sup>54</sup>Ex. 19.15.

<sup>55</sup>Jer. 39.10.

<sup>56</sup>Lev. 19.16, 17, 18.

<sup>57</sup>Ibid. 19.34.

<sup>58</sup>Deut. 24.14.

It is, of course, unnecessary to remind you that the special meaning of *laborers* here attributed to all these words is not generally accepted. The general meaning of '*ani*', according to the Dictionary is "poor, afflicted, humble"; that of *ebyon*: "in want, needy, poor;" that of *dal*: "the poor" and that of *rea*': "friend, companion, fellow."<sup>59</sup>

The disparity need not surprise us. We have but to remember that in pretty nearly every language, English not excepted, the great mass of people who are not rich, but who work for a living are curtly called "the poor".<sup>60</sup>

Indeed Murray illustrates his definition by quoting from Burke who denounces as base and wicked, the canting phrases of demagogues about "the laboring poor." One might almost suspect the great orator of speaking under the inspiration of the philosophy of our Book of Proverbs, which dubs the arrogant upstart, who dwells in fancied superiority over his fellow-men, "the scorner" (*les*)<sup>61</sup> and, much to his disadvantage, contrasts him with his betters, the humble men, the laborers (*'aniyyim*). "The Lord scorneth the scorners (*lesim*) but giveth grace unto the '*'aniyyim*.'"<sup>62</sup>

"The rich man (*'ashir*) is wise in his own eyes;  
But the poor (*dal*) that hath understanding  
searcheth him through."<sup>63</sup>

A comparison of the texts relating to "the poor" will show that they have no reference to mere paupers, but that they deal with substantial citizens whose labors contribute to the general welfare.

Mere paupers are essentially different. They are free of obligations. They own nothing, they owe nothing, and are creditors to no man. It follows that they have

<sup>59</sup>Brown-Driver, pp. 2, 195, 776, 945.

<sup>60</sup>Webster's Unabridged, p. 1012; Murray's (The Oxford) English Dictionary, vol. 7, pp. 1114, 115.

<sup>61</sup>Prov. 21.24.

<sup>62</sup>*Ibid.* 3.34.

<sup>63</sup>Prov. 28.11.

no occasion to sue and no man thinks of suing them. The whole machinery of civil justice is to them a mere spectacle. As to being victims of extortion or of oppression the thing is impossible. The worst that can befall them is to be refused a gratuity. Beyond that they cannot be victimized.

The texts that we are considering deal with quite another kind of persons. Though not rich they are possessed of some property, they can borrow money, they can sue and be sued and they are liable to pay public taxes.

The Book of Exodus contains seven texts which bear upon this subject.

The first, which has been commented on in an earlier lecture of this series, relates to the *rea'* from whom an animal is hired, sometimes to be worked by its owner, and sometimes by the borrower or by another in his behalf.<sup>64</sup>

The second refers to the *'ani*: "If thou lend money to any of my people, to the *'ani* *'immak*, (the *'ani* in thy employ) thou shalt not be to him as a creditor, neither shall ye lay upon him interest."<sup>65</sup>

The third refers once more to the *rea'*: "If thou take thy *rea'*'s garment to pledge, thou shalt restore it unto him by that the sun goeth down; for that is his only covering, it is his garment for his skin; wherein shall he sleep?"<sup>66</sup>

The fourth refers to the *dal*: "Thou shalt not follow the multitude to do evil; . . . neither shalt thou favor the *dal* in his cause", while the fifth refers to the *ebyon*:

"Thou shalt not divert justice (*mishpat*) from thy *ebyon* in his cause."<sup>67</sup>

The sixth also refers to the *ebyon*: The produce of the fallow year shall be for "the *ebyonim* of thy people" to eat,<sup>68</sup> while

The seventh recurs to the *dal*. It provides for a census-

<sup>64</sup>Exod. 22.13.

<sup>65</sup>Exod. 22.21.

<sup>66</sup>Exod. 22.25,26

<sup>67</sup>Exod. 23.6.

<sup>68</sup>Exod. 23.6

tax. Everyone numbered shall pay half a shekel: "The rich (*he-'ashir*) shall not give more, and the poor (*ha-dal*) shall not give less. . . ." <sup>69</sup>

This group of Exodus texts is of interest in various aspects. It and the Jeremiah group of analogous texts are the only ones which employ all of the four terms *rea'*, *'ani*, *dal* and *ebyon*.

What however is more important is the fact that all the members of all the classes mentioned have either some property or some credit. The *rea'* is represented in one text as the owner of an animal which he hires out for money, and in another he borrows money, pledging his garment for its repayment. He is probably always poor, but sometimes very poor and seems like the *sakir* to depend on his daily wage for his living. The ordinance requires that this pledged garment shall be handed to him at night so that he may have a covering needed for sleep. Such a loan must therefore finally rest on credit, that is, the lender must believe that the borrower, once having his garment, will not refuse to work to pay off the debt.

The *'ani*, in one text, is represented as being credited with a loan without a pledge, the creditor apparently believing, not only that he will pay the debt, but will also pay interest thereon. The ordinance, however, interferes with such a contract by declaring the exaction of such interest illegal.

This subject of interest for money loaned or *tarbit* (increase) for victuals loaned was an important feature of labor conditions in the ancient world. The wages or other compensation must have been so scanty that whenever anything beyond the ordinary occurred in a laborer's family, he was compelled to resort to a loan to tide it over, and for this loan interest or increase was exacted. No

<sup>69</sup>Exod. 30.15.

one but the employer would lend the money to these laborers and there was practically no opportunity to earn a surplus wherewith to pay it back. On the contrary, as new difficulties arose there would have to be more loans. When it is remembered that the great Babylonian empire's normal rate of interest was three times as great as ours, it will be seen with what terrific rapidity a loan would be doubled. The natural effect of such conditions was that the poor laborer would have to work all his life in the vain effort to reduce a debt which was steadily mounting. He would in short be in a position barely distinguishable from slavery.

That the *ger* were at first in this condition is fairly inferable from the words of Moses in describing the evil consequences which the non-observance of the Lord's law by Israel would entail: "The *ger* that is in thy midst. . . shall lend to thee and thou shalt not lend to him."<sup>70</sup> With the rise of Hebrew working-classes, the latter became subject to the same practices, and the problem of curing the evil became insistent.

The result was the ordinance which forbade the charging of interest for loans to the '*ani*'<sup>71</sup> and afterwards to any Israelite who had become impoverished<sup>72</sup> and finally to the sweeping prohibition to take interest from any one but a *nokri*, an unmitigated alien, a foreigner.<sup>73</sup> The effect of this was far-reaching for it relieved the *ger*, who had by that time either reached assimilation or approached it. While this consequence is nowhere stated directly, it is implied in the ordinance which forbade the charging of interest to an impoverished Israelite who must be treated as a *ger we-toshab* and no interest or increase may be asked of him.<sup>74</sup>

This, however, was not the limit of its accomplish-

<sup>70</sup>Deut. 28,43, 44.

<sup>71</sup>Exod. 22,21.

<sup>72</sup>Lev. 25,35-37.

<sup>73</sup>Deut. 23,20, 21.

<sup>74</sup>Lev. 25,35-37.

ment. It practically acted as an obstacle to the development of commerce, evidently on the matured policy of favoring and stimulating agricultural activity. Trade and commerce were to be left to the *nokri*, meaning, most probably, the Phoenicians, the Tyrians. Isaiah speaks of Tyre as destined "to have commerce with all the kingdoms of the world"<sup>75</sup> and Ezekiel addresses it as "the merchant of peoples for many isles"<sup>76</sup> while Proverbs and Job both use the word *kena'ani* (Canaanite) for "merchant."<sup>77</sup>

However discouraging this state-policy of the Hebrews was to mercantile adventure, it was steadily adhered to. "Take no interest from an Israelite" was the slogan. Like all forcible prohibitive measures there were those who violated it. Ezekiel is especially bitter on such, holding them to be criminals of the deepest dye.<sup>78</sup> While his denunciation may have been intensified by ultra-enthusiasm for the cause, it nevertheless reflected general opinion. A man entitled to respect, one "who shall sojourn in thy tabernacle" is he "that putteth not out his money on interest."<sup>79</sup> The wisdom of Proverbs is equally condemnatory: "He that augmenteth his substance by interest and increase, gathereth it for him that is gracious to the *dallim*."<sup>80</sup>

We must not however permit our attention to stray too long from the texts concerning the Hebrew working-man which we were considering when we lighted upon the subject of interest on loans.

And now to resume:

The *dal* is spoken of in one text as liable to a fixed capitation tax, like any other citizen rich or poor, which necessarily involves the idea of his having or claiming to have a valuable interest of some kind worth striving for.

The *ebyon* too is in one text viewed as having such a

<sup>75</sup>Isa. 23.17.

<sup>76</sup>Ezek. 27.3.

<sup>77</sup>Prov. 31.24; Job 40.30.

<sup>78</sup>Ezek. 18.13.

<sup>79</sup>Psalms 15.5.

<sup>80</sup>Prov. 28.8.

case at law. In the other case he is made to receive a quantum at least of the produce of the fallow year. The questions raised in this instance are complicated. First, we must understand what the fallow year is.

The first provision respecting it is as follows:

"Six years thou shalt sow thy land, and gather in the increase thereof; but the seventh year thou shalt let it rest and lie fallow and the *ebyone* '*ammeka* shall eat and what they leave the beast of the field shall eat. In like manner thou shalt deal with thy vineyard and with thy oliveyard."<sup>81</sup>

This curt paragraph cannot possibly be the whole law on a subject so intricate and so important. It would seem to have behind it a body of traditional or oral law familiar to all, and to be stated as it is, merely to introduce a new feature to be added to the old common law.

There is, however, another provision, which being more extended, throws light upon the whole subject. It is found in Leviticus. "When ye come into the land which I give you, then shall the land keep a Sabbath unto the Lord. Six years thou shalt sow thy field, and six years thou shalt prune thy vineyard, and gather in the produce thereof. But in the seventh year shall be a Sabbath of solemn rest (*Shabbat Shabbaton*) for the land, a Sabbath unto the Lord; thou shalt neither sow thy field, nor prune thy vineyard. That which groweth of itself of thy harvest thou shalt not reap, and the grapes of thy undressed vine thou shalt not gather; it shall be a year of solemn rest (*Shenat Shabbaton*) for the land. And the Sabbath-produce of the land shall be food for you: for thee, and for thy '*ebed* and for thy *amah* and for thy *sakir* and for thy *toshab* living '*immak* (in thy employ); and for thy cattle and for the beasts that are in thy land, shall all the increase thereof be for food."

<sup>81</sup> Exod. 23.10, 11.



"And the land shall yield her fruit, and ye shall eat until ye have enough, and dwell therein in safety. And if ye shall say: 'What shall we eat the seventh year? behold, we may not sow, nor gather in our increase;' then I will command My blessing upon you in the sixth year, and it shall bring forth produce for the three years. And ye shall sow the eighth year, and eat of the produce, the old store (*yashan*); until the ninth year, until her produce come in, ye shall eat the old store."<sup>82</sup>

That these two provisions refer to the same institution is, of course, obvious; but there are noteworthy distinctions.

In the former, the year is not given a name. There is no substantive for it. It is, however, characterized by the verbs *shamaṭ* (to let it rest) and *naṭash* (lie fallow). From this verb *shamaṭ* is derived the name for the release-year (*shenat ha-shemittah*) of Deuteronomy.<sup>83</sup> This release-year, being the same seventh year, is closely related to the fallow-year of Exodus and to the Sabbatical year of Leviticus though it does not speak of the land. It was, what we call, a statute of limitations. These are its provisions:

"At the end of every seven years thou shalt make a release (*shemittah*). And this is the manner of the release: every creditor (*ba'al mashsheh yado*) shall release that which he hath lent unto his *rea'*; he shall not exact it of his *rea'* and his *ah* (brother); because the Lord's release hath been proclaimed. Of a *nokri* thou mayest exact it, but whatsoever of thine is with thy brother thy hand shall release unless the time should come when there shall be no *ebyon* among you. . . ."<sup>84</sup>

The close relation between these three sorts of years was apparent to Nehemiah when a covenant was entered

<sup>82</sup>Lev. 25.2-7, 19-22.

<sup>83</sup>Deut. 15.9; 31.10.

<sup>84</sup>Deut. 15.1-4.

into to observe the ancient laws among which were "the fallow year and the release year" (*we-niṭṭosh et ha-shanah ha-shebi'it u-mashsha kol-yad*).<sup>85</sup> Note here the use of *naṭash* just as in the fallow-year provision of Exodus, and the conjunction with the release of debts (*mashsha kol-yad*), as in the limitation law of Deuteronomy.

From the consideration of the three groups of texts the following inference may be drawn:

a) The ancient inhabitants of Canaan whom Israel dispossessed, had probably the custom of the fallow in every seventh year.

b) This custom was, after the Conquest, continued by the Hebrews.

c) As was common in the ancient world, the Canaanite fallow was probably associated with pagan ideas and pagan practices.

d) The Exodus text contained no reference to religion but the Leviticus text was an essential portion of it, the two together being one complete ordinance. This Levitical section gave to the fallow year a specifically Hebrew religious character and even a specifically Hebrew religious name, *Sabbatical* year. It also supplied the data which were not expressed in the Exodus portion, namely a complete list of those entitled to eat of the fallow-year's produce, and specific directions as to the mode in which thrift should be exercised in order to avoid scarcity.

There were naturally to be store-houses—granaries. That the Hebrews were familiar with this mode appears plainly from the narrative of Joseph's advice to Pharaoh in Egypt.<sup>86</sup> In these granaries the surplus portion of the crop of the sixth year was to be stored, which, with the natural produce of the seventh year, combined with such

<sup>85</sup>Neh. 10.32.

<sup>86</sup>Gen. 41.56. Though the Masoretic text of this verse may be somewhat defective, there is enough in it when combined with the Septuagint version to make the meaning unmistakable.

of the crop of the eighth year as would be available for consumption in that year, would suffice to ward off suffering in the Sabbatical year and the year following it. By the ninth year, the bulk of the eighth year crop would be on hand and all danger would be past.

As regards the beneficiaries of the seventh year produce it is to be remarked, that the Levitical section specifies the farmer, his family, his slaves and his Canaanite laborers the *sakir* and the *toshab*. When the Hebrews had developed a class or classes of farm-laborers it was necessary to add them to the list and they were accordingly added as a new feature of the old common law, *ebyone* 'ammeka, the *ebyonim* of thy people.<sup>87</sup> The word *ebyonim* is here used as a general term including all the Hebrew farm-laborers by whatever names their classes might on other occasions be known.

After this rather prolix treatment of the Exodus texts we may now pass on to the Levitical texts.

Of these there are but five, one referring to the *rea'*, two to the *'ani* and two to the *dal*. The *ebyon* is not mentioned in any of them.

The first, the *rea'* text is as follows:

"Thou shalt not oppress thy *rea'* nor rob him, (*lo ta'ashok et re'eka we-lo tigzol*); the wages of a *sakir* shall not abide with thee all night until the morning."<sup>88</sup> Here we have the *rea'* tied to the *sakir*, the wage-earner, and moreover we have the prohibition against oppressing or robbing him in about the same terms as similar ordinances against abusing other (non-Hebrew) workers are worded.

The *'ani* texts are these:

The first of them prohibits reaping "the corner of thy field" and gathering "the gleaning of thy harvest" as also the gleaning of "thy vineyard;" "thou shalt

<sup>87</sup>Exod. 23.11.

<sup>88</sup>Lev. 19.13; Deut. 24.15.

leave them for the 'ani and for the *ger*.'" <sup>89</sup>

The other of them provides: "When ye reap the harvest of your land, thou shalt not wholly reap the corner of thy field, neither shalt thou gather the gleanings of thy harvest; thou shalt leave them for the 'ani and for the *ger*.'" <sup>90</sup>

The probability is that the term *ger* in these texts is used in a sense large enough to include the *yatom* and the *almanah* who are in fact part of the *ger*.

These texts further show that here, as in the Exodus texts, the Hebrew 'ani had been recognized as a class. When the analogous Deuteronomic ordinances were enacted, the beneficiaries were merely the *ger*, the *yatom* and the *almanah*.<sup>91</sup> The 'ani workers had not yet become of sufficient importance to be arrayed alongside of the classes of non-Hebrew workers.

The *dal* texts are these:

The first provides for an abatement of the offering demanded of the leper who is to be cured, "if he be *dal* and his means suffice not."<sup>92</sup>

The significance of this text lies in the fact that the *dal* is not released from the payment of a proper tax, although the amount thereof is reduced to suit his circumstances.

The other *dal* text is a substantial reiteration of the Exodus texts which dwell on the duty to do justice without fear or favor:

"Ye shall do no unrighteousness in judgment (*mishpat*); thou shalt not respect the person of the *dal*, nor favor the person of the mighty (*gadol*); in righteousness shalt thou judge thy neighbor."<sup>93</sup>

The only difference is in the wording and in the use of the *dal* and *ebyon* synonymously in the Exodus passages.

The Book of Numbers contains no texts having in

<sup>89</sup> Ex. 19:9, 10.

<sup>90</sup> Lev. 19:9, 10.

<sup>91</sup> Deut. 24:29, 30, 31.

<sup>92</sup> Lev. 14:21.

<sup>93</sup> Ex. 19:15.

them any of the words we are considering. Deuteronomy, on the other hand, is rich in them, though it does not mention the *dal*.

The *rea'* texts in Deuteronomy are these:

"When thou dost lend thy *rea'* any manner of loan, thou shalt not go into his house to fetch his pledge. Thou shalt stand without, and the man to whom thou dost lend shall bring forth the pledge without unto thee. And if he be an '*ani*, thou shalt not sleep with his pledge; thou shalt surely restore to him the pledge when the sun goeth down, that he may sleep in his garment, and bless thee; and it shall be righteousness unto thee before the Lord thy God."<sup>94</sup>

Hard upon this Deuteronomy text follows one relating to the *sakir*, '*ani we-ebyon*.

The '*ani-ebyon* texts are as follows:

"The *ebyon* shall never cease out of the land; therefore I command thee, saying: 'Thou shalt surely open thy hand unto thy brother, unto thy '*ani* and to thy *ebyon* in thy land.' "<sup>95</sup>

"Thou shalt not oppress (*lo-ta'ashok*) a *sakir* '*ani we-ebyon* among thy brethren or among thy *ger* that are within thy land within thy gates (*bi-she'areka*). In the same day thou shalt give him his hire, neither shall the sun go down upon it; for he is '*ani* and setteth his heart upon it. . . . "<sup>96</sup>

There appears to be no distinction between the '*ani* and the *ebyon* in these texts. Moreover they appear to be used adjectively at times, the main thought being that persons well off in this world's goods should be kind and helpful to the poorer classes. The only workmen who are distinctly conceived as a class are the *sakir*, the laborers

<sup>94</sup>Deut. 24.10-13.

<sup>95</sup>Deut. 15.11.

<sup>96</sup>Deut. 24.12, 15.

for daily wage. The others seem to be visualized in the lump as "the poor."

The prophets are not reticent on the general subject.

Amos denouncing Israel charges that they sell the *ebyon* for a pair of shoes,<sup>97</sup> that they pant after the dust of the earth on the head of the *dallim* and pervert the right of the '*anawim*,<sup>98</sup> that they oppress the *dallim* (*ha-'osheket dallim*) and crush the *ebyonim*,<sup>99</sup> that they trample upon the *dal* and take from him exactions of wheat,<sup>100</sup> that they turn aside the *ebyonim* in the gate (i.e. deny them justice in the court);<sup>101</sup> they swallow the *ebyon* and destroy the '*anawim* of the land<sup>102</sup> and seek to buy the *dallim* for silver and the *ebyon* for a pair of shoes.<sup>103</sup>

The burthen of his complaint is that the nobility and gentry of the land are unmindful of the common people's welfare, look upon the latter as mere instruments of their pleasure and will certainly encounter a deserved doom. With him the '*ani*, and the *ebyon* are the working masses of the country while the *dal* is the unsuccessful farmer.

Isaiah is not a whit more complaisant to Judah than Amos to Israel. He charges that the elders and the princes have the spoil (*gezulat*) of the '*ani* in their houses, that they crush the people and "grind the face of the '*aniyyim*."<sup>104</sup>

And, referring either to Judah or to Israel or to both he denounces "woe unto them that decree unrighteous decrees and to the writers that write iniquity; to turn aside the *dallim* from justice (*din*) and to rob of their right (*ligzol mishpat*) the '*aniyyim* of my people". . ."<sup>105</sup>

Even when he pictures an ideal government for the future he cannot forbear a thrust against the mean magnates of the present, the wicked '*aris* and the arrogant *les*, who

<sup>97</sup>Amos 2.6.

<sup>98</sup>*Ibid.* 2.7.

<sup>99</sup>Amos 4.1.

<sup>100</sup>*Ibid.* 5.11.

<sup>101</sup>*Ibid.* 5.12.

<sup>102</sup>*Ibid.* 8.4.

<sup>103</sup>*Ibid.* 8.6.

<sup>104</sup>Isa. 3.14, 15.

<sup>105</sup>*Ibid.* 10.1, 2.

will in better times disappear with the consequence that the *'anawim* shall rejoice in the Lord and the *ebyonim* shall exult in the Holy One of Israel.<sup>106</sup>

When a true Davidic type of king shall be restored, "with righteousness shall he judge the *dallim* and decide with equity for the *'anawim* of the land."<sup>107</sup>

Jeremiah, too, berates the magnates of Judah: "They do not award justice (*mishpat*) to the *ebyonim*."<sup>108</sup>

"Do justice between a man and his *rea'*, oppress not *ger*, *yatom* or *almanah*."<sup>109</sup>

He bitterly denounces the King Jehoiakim:

"Woe unto him that buildeth his palace by unrighteousness,

And his chambers by wrong,

That useth his *rea'*'s service for naught

And giveth him no wage for it."<sup>110</sup>

And contrasts his corruption with the righteousness of his father King Josiah: "He judged the cause of *'ani* and *ebyon*, and it went well with him."<sup>111</sup>

When Babylonian supremacy made Zedekiah the last king of Judah before the Captivity, a wave of contrition seems to have swept over the land because of the breach of the laws relating to Hebrew laborers, slave and free. Under its influence there was enacted a solemn resolution to obey these laws in future. When the peril under which that action was taken seemed past, the old abuses were revived. This called forth Jeremiah's denunciation:

"Thus saith the Lord: Ye have not hearkened unto Me to proclaim liberty, every man to his brother and every man to his *rea'*;"<sup>112</sup> and therefore "I will give them into the hand of their enemies and into hand of them that seek their life."<sup>113</sup>

Ezekiel enumerates among his vicious criminals him

<sup>106</sup>*Ibid.* 29.20, 19.

<sup>107</sup>*I*sa. 11.4.

<sup>108</sup>*Jer.* 5.28.

<sup>109</sup>*Jer.* 7.5, 6.

<sup>110</sup>*Jer.* 22.13.

<sup>111</sup>*Ibid.* 22.16.

<sup>112</sup>*Jer.* 34.17.

<sup>113</sup>*Ibid.* 34.20.

that "hath wronged (*honah*) the '*ani* and the *ebyon*, taken by robbery (*gezelot gazal*)," <sup>114</sup> and indicts the princes of Israel, for having committed grave crimes, among them having gained from their *re'im* by extortion or oppression (*be-'oshek*) <sup>115</sup> which profit he here stigmatizes as plunder (*beša'*), just as in the text before quoted he calls it robbery.

Enlarging upon his theme, he inveighs against the '*am ha-areš* for similar offences, which he characterizes as oppression (*'oshek*) and robbery (*gazel*). The crimes charged are "having wronged (*honu*) '*ani* and *ebyon* and oppressed the *ger* contrary to law." <sup>116</sup>

Zechariah speaks in the same strain:

"Thus hath the Lord of hosts spoken, saying, Execute true justice, show mercy and compassion every man to his brother. Oppress not (*al-ta'ashok'u*) *almanah*, *yatom*, *ger* or '*ani*. . ." <sup>117</sup>

Malachi while speaking on the same subject makes no mention of a specific class of Hebrew laborers. While he warns against unfair treatment of *sakir*, *almanah*, *yatom* or *ger*, he does not mention *rea'*, '*ani*, *dal* or *ebyon*. As he probably lived and worked during or shortly after the advent of Ezra and Nehemiah, the inference is not remote that in the restored Commonwealth, the Hebrew laborers held a position superior to that which had been theirs before the Captivity. The social conflict, between the nobility and gentry on the one hand and the laborers and the less successful farmers on the other, had been greatly reduced. The fifth chapter of Nehemiah seems to confirm this view. <sup>118</sup>

The Proverbs too throw light on our subject:

"The oppressor (*'oshek*) of the *dal* blasphemeth his Maker,

But he that is gracious to the *ebyon* honoreth Him." <sup>119</sup>

<sup>114</sup>Lev. 19: 2

<sup>115</sup>Ibid. 22: 12, 13

<sup>116</sup>Ibid. 22: 29.

<sup>117</sup>Zech. 7: 9, 10.

<sup>118</sup>Neh. 5: 1-13

<sup>119</sup>Prov. 14: 31



"Say not unto thy *rea'*, Go and come again,  
 To-morrow I will give—when thou hast it by thee."<sup>120</sup>  
 "He that is gracious to the *dal* lendeth unto the  
 Lord."<sup>121</sup>

"He that oppresseth the *dal* for gain  
 Will pay to the rich (*'ashir*) and come to want."<sup>122</sup>  
 "Do not rob (*al-tigzol*) the *dal*, because he is *dal*,  
 Nor crush the '*ani* in the gate" (at the local court  
 sitting in the gate).<sup>123</sup>

"The king that faithfully judges the *dallim*  
 His throne shall be established forever."<sup>124</sup>

"There is a generation whose teeth are as swords,  
 and their great teeth as knives,

To devour the '*aniyyim* from off the earth, and the  
*ebyonim* from among men."<sup>125</sup>

"Open thy mouth, judge righteously,  
 The cause of '*ani* and *ebyon*."<sup>126</sup>

Job too describes transgressors of the kind we have  
 been considering:

"They drive away the ass of the *yetomim*,  
 They take the *almanah's* ox for a pledge,  
 They turn the *ebyonim* from their right,  
 The '*anawim* of the land hide themselves together."<sup>127</sup>

"They take pledge from the '*ani*  
 So that they go about naked, without clothing.  
 Carry sheaves and remain hungry,  
 Tread winepresses and suffer thirst."<sup>128</sup>

The conclusion to be derived from the texts is that  
 the various names for the Hebrew poorer classes, did not  
 originally suggest any great disparity among them.  
 Their multiplicity may have been due to local, to temporary  
 or to dialectal causes.

<sup>120</sup>*Ibid.* 3.28.

<sup>121</sup>Prov. 19.17.

<sup>122</sup>*Ibid.* 22.16.

<sup>123</sup>*Ibid.* 22.22.

<sup>124</sup>*Ibid.* 29.14.

<sup>125</sup>*Ibid.* 30.14.

<sup>126</sup>*Ibid.* 31.9.

<sup>127</sup>Job 24.3, 4.

<sup>128</sup>Job 24.9, 10, 11.

The notion that they were all recipients of charity is old and wide-spread. Indeed, in one instance A. V. goes so far as to translate *ebyon*, straightway, by beggar.<sup>129</sup>

My hope is that such ideas may be finally dismissed.

Actual beggars or actual beggary is perhaps nowhere mentioned in the Bible. The two strongest passages referring to it are to be found in the Psalms. They are both utterances of the lowly spirit.

The first is the thirty-seventh Psalm.

It rejoices in the prospect that the *'anawim* shall inherit the land <sup>130</sup> and that the wicked who design to depress the *'ani we-ebyon* shall be baffled,<sup>131</sup> and sums up experience in this hopeful strain: "I have been young and now I am old, yet have I not seen the innocent forsaken nor his seed begging bread (*mebak̄kesh lehem*).<sup>132</sup>

The second is the one hundred and ninth Psalm. The Psalmist is represented as dwelling on the malignity of his enemies and invoking against them and their progeny the sternest retributive justice: "Let his children be vagabonds and beg. . . ." (*we-shielu*).<sup>133</sup> Such a fate he demands for the powerful oppressor who "persecuted the *'ani we-ebyon*."<sup>134</sup>

While the picture of beggary, present in the mind of the Psalmist, must have been derived from life, yet it presents no actual condition, but is in both cases an imaginative suggestion. Certain it is that the *'ani we-ebyon* whose voice we hear has nothing in common with this hypothetical beggar nor with any actual beggar. He may, it is true, be subject to oppression by his employer, but he can have recourse to the Courts and he will obtain justice. Indeed there is nothing more admirable in any system of jurisprudence than the principles laid down in the Mosaic law to govern the administration of justice.

<sup>129</sup>1 Sam. 2:8.

<sup>130</sup>1<sup>st</sup> Psalm 37:11.

<sup>131</sup>1<sup>st</sup> Psalm 37:14.

<sup>132</sup>1<sup>st</sup> Psalm 37:25.

<sup>133</sup>1<sup>st</sup> Psalm 109:10.

<sup>134</sup>1<sup>st</sup> Psalm 109:16.

The charge of Moses to the judges was:

"Hear the causes between your brethren, and judge righteously between a man and his brother, and between a man and his *ger*. Ye shall not respect persons in judgment, ye shall hear the small (*katon*) and the great (*gadol*) alike; ye shall fear no man, for justice (*mishpat*) is God's."<sup>135</sup>

An important Exodus passage indicates the danger that tribunals might be influenced by popular prejudice, the voice of the crowd.

"Thou shalt not follow the crowd (*rabbim*) to do evil, . . . to pervert justice;" and do not favor the *dal* in his cause (*be-ribo*). Thou shalt not wrest the judgment (*mishpat*) of thy *ebyon* in his cause.<sup>136</sup>

"Ye shall do no unrighteousness in judgment (*mishpat*); thou shalt not favor the *dal* or the *gadol*; but in righteousness shalt thou judge thy neighbor (*'amiteka*)."<sup>137</sup>

"Thou shalt not wrest judgment, thou shalt not respect persons, nor take a gift. . . ."<sup>138</sup>

"Thou shalt not pervert the justice due to the *ger*. . . ."<sup>139</sup>

"Cursed be he that perverteth the justice due to the *ger*. . . ."<sup>140</sup>

Isaiah, denouncing injustice in the courts declares that unrighteous judges "turn aside the *dallim* from justice (*din*) and rob (*gazal*), 'aniyyim of their right (*mishpat*). . . ."<sup>141</sup>

Jeremiah too declares of such that they do not judge the right (*mishpat*) of *ebyonim*.<sup>142</sup>

Whatever the origin of the four names for the Hebrew poorer classes, it would appear that in the event only one of them developed a specific and peculiar meaning. This was the *dal*.

Just as the landless Canaanites had become the *sakir* and those who had been landholders before the Conquest had become the *toshab*, so there was a somewhat similar

<sup>135</sup>Deut. 1.16, 17.

<sup>136</sup>Exod. 23.2, 3, 6.

<sup>137</sup>Lev. 19.15.

<sup>138</sup>Deut. 16.19.

<sup>139</sup>Deut. 24.17.

<sup>140</sup>Deut. 27.19.

<sup>141</sup>Isa. 10.2.

<sup>142</sup>Jer. 5.28.

movement among the Hebrews. The landless ones became in general, the *ebyon*, the '*ani*', the *rea*' and later on the *sakir*, while the landholders who were in danger of losing their farms or who had actually lost them became the *dal*.

Amos, in the eighth century B.C., denouncing the Northern government (Israel) declares that "it tramples upon the *dal*" taking from him unreasonable proportions of his wheat, and rails at the luxury and extravagance of those who thus abused their taxing-power. This burdensome wheat-tax he calls *mas'at-bar*.<sup>143</sup>

That even before Amos, there were unsuccessful land-owners appears incidentally in the narrative which tells of the selection of Gideon to be the *shofet* of Israel. When the deputation waited on him to tender him the great office, he was found threshing wheat. In his reply he modestly deprecated his fitness for the post describing his family or clan as *dal* and himself as its humblest member.<sup>144</sup>

The *dal* farmers persisted as a class until the downfall of the Judean Kingdom (586 B.C.) and even then, they were not deported but were favored by the Babylonian Conquerors.

The record, after reciting the classes that were deported, adds: None remained save the *dallat 'am ha-areş*<sup>145</sup> or as they are otherwise called *dallat-ha-areş*, who were left to be vine-dressers and husbandmen.<sup>146</sup>

The policy of the Babylonian conquerors was to deport the magnates and the powerful, but to leave the *dal* at home to continue the cultivation of the land.

And now to sum up the result of our inquiries:

At the final conquest of Canaan, the Hebrews took the land of the Canaanites and divided it among themselves, retaining the previous inhabitants as workingmen. Most of these remained settled on the land as a peasant

<sup>143</sup> Amos 5.11.

<sup>144</sup> Jud. 6.15.

<sup>145</sup> 2 Kings 24.14.

<sup>146</sup> 2 Kings 25.12; Jer. 52.15, 16.

population and these were called *toshabim*, while those who were not so settled worked for daily wage as *sekirim*. The general term applied to both classes was *ger* (literally, stranger). When one of these *gerim* died his family were not driven out of their humble cottage, but remained on the land and worked on it. Hence the locution *ger, yatom we-almanah* which occurs so frequently as descriptive of the conquered population.

This word *ger* has undergone curious transformations. At first and for many centuries it simply meant *stranger*. When Abraham, in addressing the Hittites, called himself a *ger* he used the word in that sense. After the Hebrew conquest had subjected the Canaanites, it acquired the additional meaning of *laborer*, and this it retained during the whole period covered by the Biblical writings, even to a time when the *ger* had been thoroughly absorbed in Israel and the distinction had no application in real life. The Book of Proverbs so replete with keen observation and profound reflection on social conditions never mentions the word, while it speaks abundantly of the *ebyon*, the *dal* and the *'ani* classes of workingmen. When it was written, say three hundred years before the present era, the descendants of the *ger* were undoubtedly classed with the Hebrew workingmen and were not known by any other name. The only way in which the word survived was that in consequence of the historical facts, it gradually and insensibly came to mean a proselyte. It had acquired that meaning more than two thousand years ago when the Greek translation of the Bible, called the Septuagint, was made. Wherever the text refers to the *gerim* we have been considering, the Greek version, without much regard for historic probability, but evidently in accord with current speech, renders proselyte. Its earliest use in that sense in any Hebrew writing that I know of, is in the Mishnah,

written probably about the year 200 of our present era, though it had probably been used in common speech for centuries before, to designate individuals of foreign stock coming in to adopt the religion of the Hebrews. That meaning it retains to this day. It is a curious philological phenomenon that while this use persisted in speech, it was eschewed in Hebrew writing. When, in the Book of Esther (written perhaps contemporaneously with the Septuagint) such proselytes are spoken of, they were not called *ger* nor indeed by any other substantive. They were described by the action taken by them, for which purpose the Hebrew writer invented a new reflexive verb. There is but one instance of its use: Esther 8.17, and this in the form of a participle: *mityahadim* or as we might say "judaizing themselves."

Closely associated with this *ger* in the records, is another class called the *ezrah*. They are not mentioned as being either workmen or as belonging to the poor. Their position as regards civil status seems to be on a parity with that of the whole body of Israel. The only difference is in religious matters. From what the texts tell us we may fairly infer that they were a large and compact body of voluntary proselytes, and the only clue to such a movement leads us back to the very beginning of the Hebrew nation. At the Exodus from Egypt, a considerable body of Egyptian natives attached themselves to Israel with the determination to become a part thereof and to share its fate. The records give us two contemptuous names for them: '*ereb rab* and *asafsuf*, both fairly rendered by "the rabble." That there should have been no right name for them seems impossible. When we reflect that the Israelites looked upon themselves as *gerim* in Egypt, the probability that by way of contrast they called these Egyptians "natives" seems reasonable. In their language,

*ezrah* meant *native* and the conclusion is easy to reach that this body of proselytes was called *ezrah*.

From the texts it plainly appears that their reception was cold. Willing as they undoubtedly were to assume all the duties, civil, military and religious, imposed on Israelites, the latter would not at once admit them to full religious equality, but insisted that they should rise to that height, by degrees. Notwithstanding this repugnance, their full assimilation to Israel must have been achieved at a very early period, since they were held up to the *ger* as an example and a model whom they should imitate and might hope to reach. It is significant that none of the prophets ever mentions, the *ezrah* save only Ezekiel in the course of a vision replete with learned historical memories.

The stages of the advance of the *ezrah* and of the *ger* to full membership in Israel, I have endeavored to sketch. At all events, the end was reached, though the memory of their different origins was not quite effaced for centuries. To the great body of Canaanite workmen and their progeny, there was finally added a large Hebrew element.

The dream of an equality of property and of prosperity indulged in by the conquerors was, naturally, not realized.

Whether there was a piece of land assigned to every householder is doubtful. There were probably many who never received any. But even if this were not so, there would be not only differences of soil and climate but disparity of ability and efficiency, both causes of varying results. Despite the best intentions, some grew rich and others slid into poverty.

It was inevitable that classes of Hebrew laborers would be formed, and to these were given names: *ebyon*, '*ani*, *dal* and finally *rea*'. Of all these classes only one, the *dal* came to mean the unsuccessful farmer, who, though he did not prosper, was still able to hold on to his land

cultivating it by the aid of his wife and children and in many cases supplementing its insufficient returns by working part of the time for others, and receiving wages therefor.

Needless to say, extreme prosperity in some raised a brood of greedy and avaricious men ready to tyrannize over their poorly-endowed neighbors.

The whole Biblical literature shows an age-long struggle against this class and in behalf of the poor, and establishes the fact that the movement in favor of the latter was largely successful, so that not only the Hebrew laborer but the *ger* were greatly improved in condition, more especially after the Return from Babylon.

Classes of beggars or paupers there were none. The frequent use of words denoting poverty meant no more than to mark out the line between the rich and those who had to earn their living by manual labor.

In a word the *stranger* and the *poor* of our versions, were both important and useful constituent parts of the body of Israel, and were, in the last analysis, neither strange nor poor, because they fully shared in the intimate life of the community and earned an honest living by their labor in its behalf.

So that we may fairly say that a great movement for the protection and improvement of the laboring mass was initiated in Israel more than three thousand years ago and continued to permeate its life and its literature, becoming indeed a part of the mental constitution of the people.

While the records of the Bible on the subject may not have been fully appreciated, the main fact could not be ignored and by the wide diffusion of the Book it has penetrated into every nook and corner of the civilized



world and changed institutions and governments. To close with the words of Zangwill, the Bible "transcends the race that produced it, like all great literature, though none other has, in the same degree carried a message to every race and grade of mankind."<sup>147</sup>

<sup>147</sup>*The Voice of Jerusalem*, v. 67 (London, 1920). American Edition p. 71



## BEN SIRA'S CONCEPTION OF SIN AND ATONEMENT

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### III. SINS AND THEIR PUNISHMENT

AMONG the various sins discussed by Sirach two are condemned most emphatically: dishonest dealing in the acquisition of wealth, and immorality; and in both of them the open defiance of God and the false security of the sinner's mind are strongly denounced. (5.1): "Set not thy heart upon thy goods; and say not, They are sufficient for me. (2) Follow not thine own mind and thy strength, to walk in the desires of thy heart. (3) And say not, Who shall have dominion over me? For the Lord will surely take vengeance on thee. (4) Say not, I sinned, and what happened unto me? For the Lord is longsuffering. (5) Concerning atonement be not without fear, to add sin upon sins: (6) and say not, His compassion is great: He will be pacified for the multitude of my sins: for mercy and wrath are with Him, and His indignation will rest upon sinners... (8) Set not thine heart upon unrighteous gains: for thou shalt profit nothing in the day of calamity." The wealthy man addressed here considered his possessions not only sufficient for the needs of the day, but even secure for the whole length of his life. Though reflecting pride, such worldly confidence would not yet have provoked God's anger; but the security of his mind made his overweening heart the guide of his conduct, and he ignored the will of God in his actions and followed his own desires.

For that attitude He will punish him.<sup>50</sup> When reminded of such consequences of his false trust, he refers his warners to the reassuring fact that so far he had experienced no punishment, though he had sinned on many an occasion. Sirach was not in a position to deny the undisturbed happiness of some sinners; and all that he could do was to warn them that their case was not due to God's indifference to man's conduct and his unlimited forgiveness and compassion, but to his longsuffering. Continued sinning is sure to exhaust it, and His great mercy will in the end turn into wrath. The sin admitted by the wealthy man is neither stated nor discussed; but the reference in v. 8 to his confidence that, when the threatened calamity overtakes him, he would offer to God sacrifices, and the warning that at that stage the unrighteous gain would prove useless, clearly indicates that the sinner has been increasing his wealth by dishonest means. This is stated again (16.12): "As His mercy is great, so is His correction also: He judgeth a man according to his works. (13) The sinner shall not escape with his plunder; and the patience of the godly shall not be frustrate". Here his sin of plundering is expressly named, his dishonest dealing with a helpless pious neighbor who, as it appears, could not obtain redress in a court of law, as either the transactions were formally within the letter of the law, or the wrongdoer was too mighty to be sued; but the wronged trusts that he will obtain redress through God who is sure to grant it.

The close connection in the confident mind of the sinner between wealth, violence, and sacrifice in the Temple is even more fully stated again (35.12=32.14): "Think not

<sup>50</sup> ἰαδικῶν ἰαδικήσας; Syriac has לכלהן עליבא ה תבעא corresponding to דרש לבל העשיקים. The Hebrew text has מבקש נרפים which is an imitation of Koh. 3.15 וראלהים יבקש את נרף. Syriac could be the translation of some similar wording, but not of that Hebrew. As several Greek texts have instead of σε σου τῇ εὐβρίᾳ, there is even less agreement between the Hebrew text and the original presupposed by Greek, and there is no possibility of deriving the latter from the Hebrew; this seems to be a retranslation into a biblicid phrase.

to corrupt with gifts; for He will not receive them: and set not thy mind on an unrighteous sacrifice; for the Lord is judge, and with Him is no respect of persons. (13) He will not accept any person against a poor man; and He will listen to the prayer of him that is wronged. (14) He will in no wise despise the supplication of the fatherless; nor the widow, when she poureth out her tale... (16) He that serveth (God) according to His good pleasure shall be accepted, and his supplication shall reach unto the clouds. (17) The prayer of the humble pierceth the clouds, and till it come nigh, he will not be comforted; and he will not depart, till the Most High will visit; and He shall judge righteously, and execute judgement". The poor and humble man, and the fatherless and the widow were wronged in turn; they have nobody whose help they could solicit against the oppressor, except God. As He acts here as the just judge by whom both parties are equally and impartially heard and judged, the idea underlying Sirach's presentation is that of a law-suit before God: the wronged submits in a prayer his complaint to the judge, presses his case upon his attention, and will not withdraw, until God takes it up. By a visitation of some kind the wrongdoer is awakened by Him and reminded of the violent act which he recently committed. Grave illness was the means of God for pointing to the fulness of the measure of sin, just as in I Kings 17. 18 the woman of Sareptha said to Elijah, What have I to do with thee, O thou man of God? art thou come unto me to bring my sin to remembrance, and to slay my son? Similarly in Ex. 4. 24-26 the sudden illness of Moses or of his son was a reminder from God that by the postponement of his son's circumcision he had neglected an urgent duty. And Sirach himself regarded sickness a punishment for sins and advised his followers to pray in illness to God, and to support their supplication by a

sacrifice (see below). Thus the sick sinner for whose punishment the wronged had prayed<sup>51</sup> traced his calamity to a recent instance of his oppression of the weak, and he tried to bribe God by sacrifices, and to pacify Him for his many sins; but as his offerings come out of dishonest gain, they are naturally not accepted. The same idea is forcibly expounded again (34.18=31.21): "He that sacrificeth of a thing wrongfully gotten, his offering is made in mockery; and the mockeries of wicked men are not well-pleasing. (19) The Most High hath no pleasure in the offerings of the ungodly; neither is He pacified for sins by the multitude of sacrifices. (20) As one that killeth the son before his father's eyes is he that bringeth a sacrifice from the goods of the poor... (24) One praying and another cursing, whose voice will the Lord listen to?" If further proof were necessary, here is the clear evidence that the exactly parallel groups of verses just interpreted refer to the sin of dishonest dealing, and the subsequent sacrifices brought by the sinner from his ill-gotten gain were offered to pacify God who sent grave illness upon him as the outward expression of His anger; and at the same time, the poor man who had been cheated<sup>52</sup> of his scanty possessions is cursing the wrongdoer before God for his deceit and robbery.<sup>53</sup>

The other transgression of the sinners which Sirach strongly denounced was immorality. About this subject a personal prayer of our author has to be quoted first

<sup>51</sup> Cf. Ex. 22.21, 22.

<sup>52</sup> The Greek word frequently used for dishonesty is *ἀδικία*, as in 40.12: "All bribery and injustice shall be blotted out; and good faith shall stand for ever. (13) The goods of the unjust shall be dried up like a river, and like a great thunder in rain shall go off in noise." Here *ἀδικία* is explained by *χρήματα ἀδικῶν*. According to the context the wrongdoer is brought by the wronged into a court of law where he bribes the judge, and wins the case.

<sup>53</sup> It seems, Sirach was here thinking of 1 Kings 8.31, 32. There the two conjugations of the verb 778 can hardly have the same meaning, as the Hif'il is nowhere used in the sense of adjuring; Jud. 17.2 has for that the Kal, as also 1 Sam 14.24 where it corresponds with 777 in v. 28.

(23. 4): "O Lord, Father and God of my life, give me not lifting up of eyes, (5) and turn away concupiscence from me. (6) Let not appetite of the belly and chambering overtake me; and give me not over to a shameless mind". As the commentators rightly note, all these lines refer to temptations to immoral acts<sup>54</sup>. Such enticements then as nowadays came to meet men of the wealthy class in the home, in the street and in society, and lay in wait on every possible path (9. 3-9). As they might have overpowered un-awares also Sirach, he endeavored to be on his guard himself, but, owing to human weakness, he felt in his struggle the need of God's assistance. As some of those whom he termed sinners not only considered a loose life to be no grave sin, but, without an earnest attempt at moral resistance, secretly yielded to immoral lust, and even committed adultery, Sirach vehemently inveighed against their conduct and its irreligious root. His statement a part of which was considered above, is for his conception of sin very instructive (23. 18): "Saying in his heart, Who seeth me? Darkness is round about me, and the walls hide me, and no man seeth me, of whom am I afraid? The Most High will not remember my sins; (19) and the eyes of men are his terror, and he knoweth not that the eyes of the Lord are ten thousand times brighter than the sun, beholding all the ways of men, and looking into secret places. (20) All things were known unto Him or ever they were created; and in like manner also after they were perfected." And in two lines (21) he declares that the adulterer will be caught and punished even by men, as also the adulteress (21-26); and the impressive warning concludes (27): "And they that are left behind shall know that there is nothing better than the fear of the Lord, and nothing sweeter than to take heed

<sup>54</sup> About the lifting up of the eyes in that sense in the rabbinic literature see Büchler, *Some Types of Jewish-Palestinian Piety*, 53 ff.

unto the commandments of the Lord." As the sinner in Job 24. 15, so here the adulterer is conscious of committing a grave sin, and he knows that it is hateful to God; He sees his deed, and will undoubtedly punish him. It is due to Him that the adulterer and the adulteress are caught and put to death. And thus on the one hand the practical consideration of the certain punishment by human justice is advanced as a warning; and on the other God's unfailing delivery of the criminal into the hands of the court of justice as His agents to execute His verdict, as v. 18d makes us to expect, is added to strengthen the caution against the certainty of punishment. The sin of the adulteress was in this instance not prompted by lust, but by her desire to have a child; and even so it is emphasized in the list of the effects of her deed as most grave: she sinned against God's law, trespassed against her husband, and brought in children by a stranger. The assertion<sup>55</sup> that in that case the conscience of the ordinary man did not feel her sin to be great is certainly unfounded. For the continued statement of the punishment that will overtake her and her children clearly shows that the emphatic enumeration of her sins was not intended to meet any wrong appraisement of the people, but for the adulteress who was not deterred from sinning in secret and did not seem to realize the gravity of her act and its consequences. Even if her adultery is not followed by conception, it broke God's law and her duty to her husband to whom she is wedded; in any case she should have considered beforehand her physical constitution, and the probability of her bringing into her husband's house children who, though by a stranger, will inherit her husband's property and name. All this is stressed as against the excuse of the childless woman that all that she desired

<sup>55</sup> Frankenberg in ZAW 15, 1895, 121.



and sinned for was a child; to silence such excuse as being most sinful, Sirach points to the certainty of the detection of her sin, of her appearance before the judging congregation and the death sentence. And, what must destroy her excuse, her children for whom she committed adultery will not only not thrive, but be visited by the curse of God.

Both sins, dishonest dealing and immorality, are included with other trespasses, less grave, but more general, in an interesting statement; and as the object of this enquiry is to establish Sirach's conception of sin and to test it by everyone of his references to sin, it is necessary to examine, if only briefly, the social offences mentioned here. First, of the son's attitude to his parents Sirach says (3. 10): "Glorify not thyself in the dishonour of thy father... (11) And a mother in dishonour is a reproach to her children. (12) My son, help thy father in his old age... (14) for the relieving of thy father shall not be forgotten; and instead of sins it shall be added to build thee up. (15) In the day of thine affliction He shall remember thee; as fair weather upon ice, so shall thy sins also melt away. (16) He that forsaketh his father is a blasphemer; and he that provoketh his mother is cursed of the Lord." Here the duties of the son to his parents are expressly stated, and their fulfilment is emphasized as a merit not forgotten by God. On the other hand, the failure to carry them out, though not expressly termed a sin, is described as an act as grave as blaspheming God and as punished by His curse.<sup>56</sup> How the unnatural glorification in his father's dishonor, that far surpasses Pro. 30. 17, is to be accounted for is difficult to see. It appears that in the circles which Sirach had in view such

<sup>56</sup> The idea is evidently based on Prov. 14.31: He that oppresseth the poor blasphemeth his Maker; and 17.5: Whoso mocketh the poor blasphemeth his Maker

disrespect extended to old persons generally.<sup>57</sup> And it seems that, in addition to the natural claim to sustenance necessitated by the physical weakness of the father, the failing of his mental capacities demanded the protection of the old parents from the savageness of their son. For in the same context (3. 13) Sirach says, "And if he fail in understanding, have patience with him; and dishonour him not in thy full strength". Was it due to some tendencies of the time to respect only youth and the full vigor of manhood, or was it to be ascribed to the influence of that branch of Greek teaching that saw in the incapacitated men and women useless wasters in human society? Is it accidental that the authors of the books of Tobit and Jubilees, both the products of Hellenistic environments, had to emphasize the same warning? Was in Sirach the father a plain, observant Jew, and the son an advanced Hellenist, estranged from his father's standard of thought, who, when blamed by the parent for the neglect of law and tradition, not, only ignored the reproach, but, in his asserted intellectual superiority and in his boasted progress, even ridiculed his father and looked down upon his parents? In any case, his sin is one against God who in the Decalogue commanded to honor father and mother (3. 6).

For its observance God promised as a reward the extension of life; that is, in case the son as a sequel to his numerous sins should be visited by a grave illness sent by God and deserved to die therefrom, he will be spared, will recover, and continue to enjoy his life with his family. For God will remember to him the material relief and sustenance which he granted his father, and He will blot out his sins, and stop his punishment. It is true that the sickness has to take its course for some time, in order to teach the sinner that transgressions are inevitably followed by

<sup>57</sup> 8. 6: Dishonour not a man in his old age; for some of us also are waxing old.

the commensurate retribution deserved, and that God in his justice demands the execution of the punishment. But when the lesson has been sufficiently impressed, and the suffering has lasted long enough to produce repentance of the past and a resolution for an improved conduct in the future, the merit is taken into account, and the danger of the illness is reduced. This principle is taught in the same chapter again (3. 3): "He that honoureth his father shall make atonement for sins: (4) and he that giveth honour to his mother is as one that layeth up treasure. (5) Whoso honoureth his father shall have joy of his children; and in the day of his prayer he shall be heard." The right conduct towards the parents brings forgiveness of sin, as Sirach puts it (2. 11): "For the Lord is full of compassion and mercy; and He forgiveth sins, and saveth in time of affliction." When such a man suffers for his sins, God, so to speak, performs two distinct actions: in His compassion and mercy He first forgives his sins as a consideration of his merits; and once that source and cause of his present affliction has by that forgiveness been removed, He lifts the calamity itself.<sup>58</sup> About that effect of the merit of honoring and supporting the parents (3. 3) Dr. Oesterley remarks, "It was a tenet of Judaism that works were meritorious, and therefore efficacious in annulling sin; thus the keeping of the fifth commandment atoned for sin. In the Old Testament sacrifices only atone for sin, in

<sup>58</sup> Koehler, *Suende and Gnade*, 626, rightly emphasizes the fact that in Sirach man's consciousness of God's forgiveness of his sins coincides with his experience of God's help and blessing, the alleviation of his pains and his suffering; forgiveness is not at all merely a spiritual, religious blessing, and the deliverance from distress, from illness, is not only outward help, but both coincide (cf. Ps. 32.1-5). The exact parallel in Mk. 2.5 should be mentioned here: When Jesus saw their faith, he said unto the paralyzed, Son, thy sins are forgiven thee. Montefiore, *The Synoptic Gospels*, I, 76, notes on the passage: "The healing was intended from the first to follow rapidly upon the proclamation of forgiveness. For the healing is the visible sign and proof of the reality of the forgiveness." And on p. 77 he says, "Jesus adopts the current view that the malady is the result of sin. Nor, however much some theologians would desire it, does he ever really combat the doctrine, false and strange as it seems to us, that disease implies sin. . . . He shared the usual belief that special maladies, such as paralysis, implied previous sin."

the New Testament it is only Christ who does so; here we have an intermediate conception: atonement is effected by the acts of a man". The three conceptions and the facts underlying them seem to me to be here rather loosely, and the corresponding elements incorrectly, stated. The first and foremost means of atonement in the Bible was repentance, as numerous passages in the Prophets expressly state; the sacrifice which the repentant sinner brought in only few cases was merely the visible expression of his approach to God and of his submission of his life to Him. If a man stole, robbed, misappropriated or embezzled a fellow-man's goods, the admission of his guilt, the restoration of the property, and the additional payment of a fifth of its value to appease the wronged person were the preliminary and indispensable acts of atonement, as far as the neighbor was concerned. Then followed the humiliation before God in the form of a confession of the sin over the head of the sacrificial animal in the Temple court, and the sprinkling by the priest of the blood of the offering instead of the life forfeited by the sinner (Lev. 5.20-26). As the Jew, as a rule, visited the Temple only three times during the year, and even then did not offer atoning sacrifices, the ever progressing spiritualization of Judaism created outside the sanctuary means of atonement religiously purer, though less solemn. So already Prov. 16. 6 teaches: Iniquity is atoned by mercy and truth, lovingkindness. Such were the 'works' in the days of the Old Testament to which Christian scholars so persistently object, but which constituted, and, let us hope, will ever form one of the many truly and strongly religious elements of Judaism. Similarly all honest dealings, whether the amount concerned be large or very small, are 'works'; as also the deeds of Jewish charity and lovingkindness, as the visiting of the sick, the burying of the dead, the comforting of

mourners, to share the joy and the grief of others, to help the poor and the needy in every possible way, all those are 'works'. In the sight of the destruction of the Temple R. Johanan b. Zakkai declared to his despairing disciple Joshua b. Hananiah that lovingkindness had the same atoning force as the altar and the sacrifices<sup>59</sup>; though for the sake of the contrast and comparison he quoted Hos. 6, 6, he merely expressed the idea of Prov. 16. 6. Jesus held the same view, when he taught that 'works' helped to salvation;<sup>60</sup> and as to atonement, he put himself not in the place of the atoning sacrifice, but in that of God who does not atone,<sup>61</sup> but, after the sacrificial atonement, forgives the sin. As to Sirach's view of the atoning effect of 'works', he expressly states that it is not sufficient to refrain from dishonoring the father (3.10ff), as such a negative conduct has no atoning merit; only the positive, active honor atones. And just as the dishonoring of the parents is a sin that involves punishment, so honoring them is a merit that brings reward from God. Such reward is expressed as the atonement of sin, as treasure, as joy in the family, as the prolongation of life, and as the acceptance of prayer; and the active honoring is termed by Sirach as deed and word, 3. 8, and as help and kind words, 3. 12.<sup>62</sup> Again Dr. Oesterley finds here the favorite idea of the balance of sin and merit, but I have not succeeded in discovering it.

As the commentators derive some help for the interpretation of 3. 8ff. from the Hebrew text, a word must be said about the latter. It reads: בני במאמר ובמעשה כבר אביך עבור ישנוך כל ברכות. It is simply incredible that Sirach should have used the late, palæstinean עבור for בעבור, as it

<sup>59</sup> Abot R. Nathan 4.11a.

<sup>60</sup> About the views of the early Church on the subject see H. B. Swete, in *Journal of Theological Studies*, IV, 1903, 323.

<sup>61</sup> Lev. 4.26.31, 35; 5.10, 13.16.18.26, Num. 15.25.

<sup>62</sup> צדקה applied to the father is impossible, see Peters; how the rabbis between the years 70 and 135 practised the honoring of their parents, can be seen in the old reports in Jer. Pe'ah I, 15c.16ff; b. Kidd. 31aff.

is not neo-Hebrew, but a wrong creation of the Middle Ages. Whether he used מאמר in the sense of speaking, is more than questionable. In 3. 9: ברכת אב היסד שרש וקללת אם הנהש נטע the impossible coupling of יסד which, as a rule, refers, to the laying of foundations, with שרש that applies to a plant, is sufficient to excite suspicion against the authenticity of the Hebrew. Now Greek has στήριζει οἴκους τεκνω, and Syriac תקים מדורא, so that the original did not contain the word שרש. Nor does הנהש נטע look natural Hebrew, not only because in the Bible נחש is used in the Kal and the Nif'al, and here the vocalization הנהש would be required; but because נטע is hardly the appropriate object to that verb. Greek has ἐκρίζοι θεμέλια, as Syriac תעקור עקרא, both presupposing יסוד and not נטע. In 3. 14, צדקה אב לא תמחה ותמור הטאת היא הנטע, the paiṭanic, medieval תמור alone is sufficiently suspect, and, as the commentators point out,<sup>63</sup> its intended meaning: instead, is nowhere else proved. So עבור and תמור point to a Palestinian paiṭan, at the earliest, of the sixth century, that is, to a retranslation of some version into Hebrew. As the full agreement of the Hebrew with the Syriac even in the difficult בעשרך in v. 17 suggests, the Hebrew text here is the translation of a Syriac rendering of the original.

The examination of Sirach's statements about sins of various kinds has shown that these concerned wrongs done to the fellow-man; and on that result we are, I think, justified in assuming that every general reference to sin without further explanation points to an act of injustice, to dishonesty or violence.<sup>64</sup> As he is frequently addressing

<sup>63</sup> See Ginzberg in *Sem. Studien* in honor of Prof. Noeldke.

<sup>64</sup> Except when Sirach quotes accounts of the Bible, as in 46.7: Joshua and Caleb hindered the people from sin; 47.11: the Lord took away David's sins; 47.23: Jeroboam made Israel to sin, and gave unto Ephraim a way of sin, (24) an I their sins were multiplied exceedingly; 48.15: in the days of Eliah the people repented not, and they departed not from their sins; 48.16: of Judah some did that which was pleasing to God, and some multiplied sins.

wealthy followers of his, his warning (31 = 34.8): "Blessed is the rich that is found without blemish, and that goeth not after gold", is clearly appealing for honest business. They acquired wealth, but will enjoy it only if it was gathered in an honest way, and if they will not be urged on by cupidity to future increase. Sirach continues (9-11) that such a man has done wonderfully among his people, for he had the opportunity to do wrong and did not commit any: he will enjoy his possessions, and the congregation will publicly declare his righteousness.<sup>65</sup> Sirach further exposes dishonesty in trade (26. 29): "A merchant shall hardly keep himself from wrong-doing; and a huckster shall not be acquitted of sin. (27.1) Many have sinned for a thing indifferent; and he that seeketh to multiply (gain) will turn his eye away. (2) A nail will stick fast between the joining of stones; and sin will rub itself in between buying and selling. (5) Unless (a man) hold on diligently in the fear of the Lord, his house shall soon be overthrown." As the whole group of verses clearly shows, it is not with immorality incidental to his association with women that the hawker is charged, but with cheating in various ways. Even if he tries, the *ἐμπορος* can hardly escape *πλημμελείας*, probably owing to his habitual overcharges, his supply of inferior merchandise, and his deviation from the terms stipulated. The *κάπηλος* who, as a small tradesman and grocer, sold to his customers in small quantities victuals and drinks, continually cheated by his weights and measures, and by the not infrequent adulteration of foods. What he and the merchant gain by such sins is an indifferent thing, for striving in that way after wealth implies turning away the eye.<sup>66</sup> Again (42.1): "Of these things be not ashamed, and accept no man's

<sup>65</sup> The Greek has: his alms; but the whole context shows that he misunderstood the Hebrew *צדקה*.

<sup>66</sup> As Smend suggests, the Hebrew had *העלם*.

person to sin (thereby): (3) Of reckoning with a partner and with travellers(?); and of a gift from the heritage of friends; (4) of exactness of balance and weights; and of getting much or little; (5) of indifferent selling of merchants. (7) Whatsoever thou handest over, let it be by number and weight; and in giving and in receiving let all be in writing." This is addressed to every householder of means; in order to prevent in one's mind the slightest, even unconscious suspicion from rising against the honesty of any person with whom one has dealings, whether of a partner or of the wife or the slave in the household, or the brother in the division of the father's property, or of traders who sell goods, Sirach recommends reckoning and booking for all matters of trust, and care and locking up, and the fear of being thought mean should be ignored.

The wording of the whole passage is not everywhere clear. What is the meaning here of the traveller? Edersheim's suggestion that the original had *על דבר חבר וארח* and that the last word is a corruption of *אח*: be not ashamed to own brotherhood and connexion, is not acceptable; for in a paragraph otherwise impressing exactitude and care in all dealings such a warning would not be suitable. Unfortunately the other witness of the original, the Syriac version of all those verses is missing. The Hebrew *על חשבון חובר ואורח* is interpreted by Smend: *Es ist falsche Vornehmheit, einen Reisegefährten und einen einkehrenden Gast nicht auszufragen, wer er sei* (it is false superiority not to ask a fellow traveller or a turning in guest as to who he is); but *חשבון* does certainly not suggest that. In v. 3 the Greek *καὶ περὶ δόσεως ἀλητρονομίας ἐταίρων* or *ἐτέρων* seems to mean: when brothers distribute between them the property of their deceased father, they should be most particular so as to avoid dishonesty, and quarrel which is very frequent on such an occasion. The Hebrew *ועל*



מחלקות נחלה ויש suggests very little. In v. 4 the second half is naturally expected to continue the list of honest and scrupulous dealings; and as the first line refers to selling, the second may refer to buying, and the original may have been לקנות מעט או רב. The parallel line is very interesting: על שחק מאונים ופלים ועל המהות איפה ואבן, and offers an additional verse: על מקנה בין רב למעט ועל ממהיר ממכר תור. Either the Greek skipped a whole line, or the Hebrew has, as in other instances, two versions of one line. In v. 2 as also in other chapters Sirach seems to advise the wealthy man who has to act as judge not to be ashamed of applying the law of God, and should the case warrant it, not to be afraid to declare the godless party to the lawsuit to be in the right; if a Hellenist acted as a judge, he would never allow the case to go in favor of the righteous man. Against dishonesty there is only one safeguard: the fear of God, obedience to His law which commands truthfulness in all dealings, 27.3. The punishment of the dishonest man is measure for measure: the destruction of his house instead of building it up by wealth.<sup>67</sup>

But there were other kinds of wrong committed against the fellow-man, and they were of various degrees. One of them is described by Sirach (10. 6): "Be not wroth with thy neighbor for every wrong; and do nothing by works of violence. (7) Pride is hateful before the Lord and before men; and in the judgement of both will unrighteousness err<sup>68</sup>. (8) Sovereignty is transferred from nation to nation, because of iniquities and deeds of violence, and

<sup>67</sup> Compare with this the extremely scrupulous honesty of Abba Saul b. Batnith and R. Eleazar b. R. Zadok, the two grocers in Jerusalem before the year 70, *Besah* III. 8; b. 31b, *Tos.* III. 8; *Jer.* III. 62b, 13.

<sup>68</sup> Greek has here: *καὶ ἐξ ἀμφοτέρων πλημμελήσει ἀδικία* in some texts *πλημμελεία ἀδικίας*; Syriac translates by *כִּן הַרְדִּיּוֹן חֲנוּפִיָּא וְכַלּוּסִיָּא* and seems to presuppose *גִּל וְעֶשֶׂק* as the words in the original. For *πλημμελεία* there appears in the Syriac *בִּישׁ* in 18. 27, as *חֲטָאָה* in 26. 29, as *עוֹלָא* in 38. 10, as *חָבֵל* in 49. 4, and as a verbal form of *בָּעִי* in 23.11, 23, as *דָּנִל*, deceive, in 26. 11, as *לֹא חָחִיב וְשִׁכְחָךְ* in 9. 13. Hebrew has *כַּעַר* corresponding fairly closely with Greek, but not with Syriac.

greed of money. . . (12) It is the beginning of pride when a man departeth from the Lord; and his heart is departed from Him that made him. (13) For the beginning of pride is sin; and he that keepeth it will pour forth abomination." First of all, the position of the word 'pride' in v. 7 between 'violence' in v. 6.8 makes it clear that pride has here some special meaning; ὕβρις and ὑπερηφάνια are זדון and גאון, deliberate, high-handed actions against God and man, which breed deeds of violence, iniquity and greed. A mortal being has no right to act with a high hand, for that is a provocation of God (Num. 15. 30); the deeds resulting therefrom brought about the destruction even of nations. Hatred harbored even for some wrong experienced is a deliberate sin, and it produces sinful actions: it exhibits presumption against God. The man whom Sirach had here in view had apparently either through his wealth or his position and influence the means for avenging himself on his neighbor; and to satisfy his desire for revenge he deliberately committed acts of violence, and thereby provoked God. This definition of the sin of hatred and revenge is a noteworthy point in Sirach's religious ethics, as it sets the mere sentiment against the fellow-man and its realization by action in direct relation to God as an offence and provocation. The sinner is asked to divest himself of his own accord of his presumptuousness, and to desist from such deliberate sinning. Of a good man, however, a different attitude is demanded, inasmuch as meekness and humility are impressed upon such as are God-fearing in their practical life. (3. 17): "My son, go on with thy business in meekness; so shalt thou be beloved of an acceptable man. (18) The greater thou art, humble thyself the more, and thou shalt find favour before the Lord. (20) For great is the potency of the Lord, and He is glorified of them that are lowly. (21) Seek

not things that are too hard for thee, and search not out things that are above thy strength. (22) The things that have been commanded thee, think thereupon; for thou hast no need of the things that are secret. (23) Be not over busy in thy superfluous works: for more things are shewed unto thee than men can understand. (24) For the conceit of many hath led them astray; and evil surmising hath caused their judgement to slip." The man to whom those warnings were addressed held a high social or official position which, however, is not indicated; by meek conduct towards others he could win the love of good fellow-men, and by humility which, of course, surpasses meekness he could obtain the favor of God who is glorified by the lowly. The high level of this practical instruction deserves full recognition, as it is a gauge of Sirach's moral standard. Without apparently any transition, that is followed by an impressive warning against conceit of a totally different nature. God gave to the Jews the Torah not only as a book of law to be obeyed and realized in daily life, but, at the same time, as a book for thought and research; for in the Torah, among other difficult problems, also some of the secrets of the creation of the universe, the origin of sin, God's providence and His retribution were partly revealed, partly only indicated. Those problems and their explanations represent more than the ordinary man can compass and understand; to try and go beyond them, and to approach in conceit even more difficult philosophical questions, or to attempt to surmise even one of the secrets of God, may confuse the mind, and lead to sin. What those unrevealed problems were is not even hinted; but, as Sirach addressed himself to men of the higher social classes, it is not improbable, as also the contrast with the Torah suggests, that some Jews came in contact with Greek and Hellenistic thought embodied in literary products which did

not halt in front of the highest metaphysical questions about God and the world.<sup>69</sup> Such discussions were new and dazzling for the unaccustomed mind of the Jew, and may have shaken the foundations of the old faith. Humility is here most essential: it demands contentment with the teachings revealed by God in the Torah, for He knows best what is good for man. Conceit and pride are failings, and lead to even greater sins.

Outside the family Sirach singles out specially the sin of unrighteousness against the fellow-man; and already the number of passages in which he reverts to this subject is sufficient evidence of the great attention which he pays to that kind of wrong. But even stronger proof is the way in which he considers the subject from various points of view, the emphasis on the sinfulness of the wrong done to the neighbor, the heavy and unusually varied punishment inflicted by God for it on the individual sinner and the whole nation, and the central position assigned to the relevant prohibitions in the Torah. Sirach says (17. 20), "Their iniquities are not hid from Him; and all their sins are before the Lord." As shown above, ἀδικία and ἀδικέω invariably denote a wrong done to the fellow-man, as is clear also from 4. 9: "Deliver him that is wronged from the hand of him that wrongeth him,"<sup>70</sup> and from 40.12:

<sup>69</sup> Dr. Kohler in *JQR*, XI, 1920, 148, 167 refers this to the secret lore of the Creation and of God's chariot in Ez. 1.

<sup>70</sup> On the peculiar Hebrew **הַשֵּׁק מִכַּף כְּשֵׁל חֹבֵן** Smend remarks that the Hif'il **הַשֵּׁק** does not occur in the Bible. There were undoubtedly more intelligible and less artificial words for that at Sirach's disposal, like the complete sentence **רָצַל עֵשֶׂק מִכַּף** from Eccl. 4.1 or Ps. 71. 4 **פָּלַטְנִי מִכַּף כְּשֵׁל חֹבֵן**, and others. Just as artificial is 35. 13=P 32. 16: "And he will listen to the prayer of him that is wronged," in the Hebrew: **וְהִשְׁמַע מִכַּף שֹׁמֵעַ**; and 13. 3: "The rich man doeth a wrong, and he threateneth withal: the poor man is wronged, and he shall intreat withal," **עֲשֵׂה יָדָיו עֲשֵׂה חֹבֵן** which is hardly intelligible. Already Schechter, and following him Peters and Smend, suggested for **עֲשֵׂה** the emendation **יָעִיז**, he is doing wrong, which however never means that. And the Hithpa'el **יִתְנַחֵם**, to praise oneself, is not supported by any rabbinic parallel, as in one of the passages where it is found, Jer. Pe'ah I. 15b, 36 R. Ishmael merely adapted the word **יִתְנַחֵם** in Ex. 15.2 and this is no proof of the actual existence of that form of the verb in that denotation. Apart from that, it reads in the parallel Barantha in Shabb. 133b **יִתְנַחֵם** in that denotation. **הִתְנַחֵם לִפְנֵי כְּשֵׁל** in Shabb. 133b **יִתְנַחֵם** see Levy, VII, 321b, bottom, Mekil. 47a. c. Mekil R. Simon 70 **יִתְנַחֵם** see Levy, VII, 321b, bottom,

"All bribery and injustice shall be blotted out; and good faith shall stand for ever. (13) The goods of the unjust shall be dried up like a river, and like a great thunder in rain shall go off in noise." Here *ἀδικία* is explained by *χρήματα ἀδίκων*; and according to the context the wrongdoer is brought by the wronged into a court of law, but he averts the certain sentence by bribing the judge who then dismisses the case. And again (10. 6): "Be not wroth with thy neighbor for every wrong; and do nothing by works of violence. (28. 2) Forgive thy neighbor the hurt that he hath done thee; and then thy sins shall be pardoned when thou prayest. (7. 1) Do no evil, so shall no evil overtake thee. (2) Depart from wrong, and it shall turn aside from thee. (3) My son, sow not upon the furrows<sup>71</sup> of unrighteousness, and thou shalt not reap them sevenfold. (10. 8) Sovereignty is transferred from nation to nation because of iniquities, and deeds of violence, and greed of money. (14. 9) And injustice of the wicked drieth up the soul.<sup>72</sup> In describing God's covenant with Israel on Mount Sinai and the revelation of the law (17. 11–14) Sirach says (14), "And He said unto them, Beware of all unrighteousness! And He gave them commandment, each man

and evidently means: make thyself beautiful, adorn thyself, and suggests the same meaning for *התנוה*. The other parallel is Sotah I. 8 *נהנוה בשער* where also the editions and the Talmud read *נהנאה*. The Greek *προσεμύρμασμαι* is translated by Peters by: in Glut geraten, in order to suggest *יחכוה* for *יחנהו*; in reality it means according to Pape: vor Zorn schnauben, in heftigen Zorn geraten, and cannot be the translation of *יחכוה* the root and forms of which never mean anything but: to singe or be singed by fire. Smend declares the Greek rendering of the word arbitrary, which is a rather convenient method of defending the untenable Hebrew word as the original one.

<sup>71</sup> Syriac has *אל תורוע על כרבא דחטיאה* which presupposes in the original either *הלכ* the furrow cut by the ploughshare; but Hebrew *הרש* never occurs in that form, and *הרש*, like *קציר*, denotes not the ground tilled but the action of ploughing, and its season, Ex. 34. 21. Consequently Smend's remark that *חרישים*, though otherwise unknown, may be assumed without hesitation to be correct, is in the presence of the very word in the Bible and of its definite meaning in the rich vocabulary of Hebrew agriculture not at all justified. Peters amends the Hebrew to *אל הדע* *חירוש*, *kümmere dich nicht um Neuigkeiten wider deinen Bruder*; but Sirach hardly wrote such unintelligible Hebrew.

<sup>72</sup> The first words of the Hebrew *בניו בשלל כעט הוא חלקו ולוקח חלק רעהו כאבר חלקו* show no relation with the original underlying the Greek; see the totally unsatisfactory guessing in Peters I and II and in Smend.



support of his parents, here the force of a good and kind deed is measured by its atoning effect; and even to the requital of a kind act is assigned, as a result, God's support in the days of affection. Again he says (29, 8), Howbeit with a man in poor estate be longsuffering; and let him not wait for thine alms. (9) Help a poor man for the commandment's sake; and according to his need send him not empty away. (10) Lose thy money for a brother and a friend; and let it not rust under the stone to be lost. (11) Bestow thy treasure according to the commandments of the Most High; and it shall profit thee more than gold.<sup>75</sup> (12) Lay up alms in thy store chamber; and it shall deliver thee out of all affliction: (13) it shall fight for thee against thine enemy better than a mighty shield and a ponderous spear.<sup>76</sup> (29.1) He that sheweth mercy will lend unto his neighbour; and he that strengtheneth him with his hand keepeth the commandments. (2) Lend to thy neighbor in time of his need; and pay thou thy neighbor again in due season." In all these exhortations Sirach addressed himself to the man of means who is able to assist the brother in various ways: either by alms, or, what is more helpful, by proper and true support to meet by a larger amount his momentary needs in accordance with the commandment in Deut. 15, 8, even if the money advanced should never be repaid, and be lost altogether. As, however, to some of Sirach's hearers or readers such liberality might

באחריתו. But what is יקר־אֵנו? I have no doubt that it is the literal translation of some plain Syriac word, but not of רַעֲתִיד; nor can μέμνηται be the rendering of the Hebrew יקר־אֵנו, as Peters would have us believe.

<sup>75</sup> The original seems to have read according to the Syriac: "Lay up for thyself a treasure of charity and love": שִׁים לְךָ אֵצֶר בְּנִצּוֹת ה' וְהוּא יַעֲלֶיךָ יוֹתֵר מִזֶּהב; and it represented the same idea as applied by the proselyte king Monobaz in Jer. Pe'ah I 15 b 68, Tos. IV 18, b. Baba Batra 10a, when he said that by the distribution of his possessions among the poor he laid up for himself a treasure with God in heaven. In fact Syro-hex's κατέναντι ὑψίστου read in the original ה' לְפָנֵי ה'. V. 12 perhaps read צָדָקָה בְּאֵצֶרֶךָ וְהוּא יַעֲלֶיךָ כֹּסֶל רַע; the source of *exorabit* in the Latin version mistook יַעֲלֶיךָ to be the Aramaic root צָלַ, to pray.

<sup>76</sup> Cf. Sir. 40, 17: Bounty is as a garden of blessings, and almsgiving endureth forever.

have appeared unnecessary, and the duty to practise charity to that length not sufficiently important and urgent, Sirach spurs on the slow and hesitating hand to a more ready and greater sacrifice by reminding his law-abiding, generally obedient follower of the commandment in Lev. 25. 25-38 as one of the great obligations imposed by God. Even a loan shall be advanced to the brother in need, in order to strengthen his failing hand; this is another reference to the commandment in Lev. 25. 35. Having so strongly impressed the great duty of giving alms and of offering true help, Sirach proceeds (12. 3): "There shall no good come to him that continueth to do evil, nor to him that giveth no alms." The connection between the two lines is clear from the parallels discussed before: the habitual sinner will be visited by punishment; but he could obtain some relief from the visitation prepared for him by God, if at least he gave alms. The duty not to refuse; nor even to delay the support for the needy is emphasized and impressed in several lines (4. 1-4), and then Sirach says (5), "Turn not away thine eye from one that asketh, and give none occasion to a man to curse thee: (6) for if he curse thee in the bitterness of his soul, He that made him will hear his supplication." The cry of the disappointed poor to God is accompanied by a curse uttered in the bitterness of his soul, which will not be without effect.<sup>77</sup>

Before proceeding with our investigation, may a few words be said about the probable wording in the original of 12. 3 just quoted? A retranslation of the Greek would suggest *לא יטב למרע המיד ולא ינו חונן צדקה* instead of which Hebrew has *אין טובה למנוח רשע וגם צדקה לא עשה*. All the learned and ingenious endeavors of Ginzberg, Lévi, Peters, Smend and others to reconcile the Hebrew with the Greek

<sup>77</sup> Cf. Ps. 109. 16, 17; 34. 24 = 31. 29 and above.



have so far failed. As the Concordance shows, the Greek version employs the adjective *ἐνδελεχής*, the adverb *ἐνδελεχῶς*, the noun *ἐνδελεχισμός*, and the verbs *ἐνδελεχεῖν* and *ἐνδελεχίζειν* several times. As LXX. translated by it the common *חמיד*, it occurs very frequently; consequently it is not probable that the Greek translator of the Hebrew Sirach should have failed to recognize the familiar *חמיד* in its usual meaning. On the other hand the fact that he used eight times the verb *ἐνδελεχίζειν* suggests that also the original employed a verb; and if there were in the rabbinic literature a trace of a denominative *החמיד*, this might have been possibly thought of. Again, *ἐνδελεχισμός* would in that case suggest in the original a verbal noun *החמיר* or *החמרה* which is just as unknown in the rabbinic literature. Consequently the probability of the employment of some other frequent and familiar word of the same meaning, of which a verb and a noun could be formed, must be admitted. Thus we read (30. 1): "He that loveth his son *ἐνδελεχίζει μάλιστα αὐτῷ*, will continue to lay stripes upon him." If the Hebrew had *יִסְרוּ חמיד*, the Greek translator rendered the words rather freely; and if it had *יִסֵּף לִסְרוּ*, he would have chosen a different translation. Did the original perhaps use *הרניל* which is found in an unverified quotation from Sirach,<sup>78</sup> and in the first version of another unknown quotation?<sup>79</sup> In another passage (37. 12): "But rather he continually with a godly man, *ἐνδελέχισε*." Hebrew has *חמיד עם איש מפקד חמיד*, and Peters who accepts *חמיד* as correct suggests that the Syriac *פריקא הוית עםר*, "be dwelling with a righteous man", and also Greek took *חמיד* to be the imperfect Hif'il of *מרד*, to extend long; while

<sup>78</sup> Synh. 110b רבים היו פצעי רוכל המרנילים לדבר ערוה כניצוץ כבעיר נחלת many were the wounds of the pedlar which accustom one to lewdness, like the spark that lighteth the ember.

<sup>79</sup> Niddah 16b שלשה שנאה וארבעה לא אהבתי שר הרנויל בבית המשתאות שר I hate, and four I like not: a prince who is too frequent in the house of banquets. Cf. also Hebrew on 8.4.

Smend declares the Syriac to be the translation of the Greek. But here again it seems hardly possible that the familiar תמיד should have suggested such a far-fetched interpretation to any translator; and it appears more probable that the original contained a different word, perhaps, שב.<sup>80</sup> or more naturally התרגל. Again (37. 18): "And that which ruleth over them continually is the tongue" appears in Hebrew as ומושלת במ כליל לשון; the word כליל as an adverb is too ridiculous for Sirach's style to be original. In 9.4. "Be not continually, ἐνδελέχεις, with a harp playing woman, lest haply thou be caught by her attempts," if שב was not the word, התרגל would best suit the sentence.<sup>81</sup> Now Hebrew has עם מנגינות אל הסתייד פן תלכד בלקותיה <sup>82</sup>סור with the late consonantal Yâd. If the existence of a second root סור of the meaning: to be familiar, in addition to the biblical שיר or סיר, whitewash, plaster, from which the rabbinic or new-Hebrew language formed the Pi'el סייר, were at all probable, a trace of it would have been preserved outside the Hebrew of Sirach. It is true, the latter has it again (8. 17): עם פוהה אל הסתייד כי לא יוכל לכסות סורך; (9.14): ככחך ענה רעך ועם חכמים הסתיר; but the repeated employment of it in the same book is no evidence of its existence outside this Hebrew text. It appears in the Kal-form (7. 14) אל הסוד בעדה שרים ואל תישן דבר בתפלה, for which the Greek has: *μη ἀπολέσχει ἐν πλῆθει πρεσβυτέρων*, prate not in the assembly of elders; how could the Greek translator find that meaning of the otherwise unknown root? Peters emends it to the Hithpa'el or the Pi'el; and Smend remarks that the connotation of the root,

<sup>80</sup> Cf. Ps. 26.5, 4. It is improbable that ἐνδελέχεις or אנשא צדיקא should be the translation of תמיד, though ἐνδελέχεις is in Syrohex, as the rendering of מפתח.

<sup>81</sup> As in Shabb. 1. 3. ררגל עבירה 3. Baraitha 13a top, Tos. 1. 14; the explanation in Jer. 1. 3c, 3. סתרגתי עמי בימי סתרגתי. Sifre Num. 18. 20, 119, 392 bottom. The Ba text of the Greek offers an exactly corresponding word, *συνηθίζε*, live together, grow accustomed to one another.

<sup>82</sup> Another version has עם ינה אל תדבך

to talk, corresponds with that of the Ethpa'al of it in Syriac. Did then Sirach's grandson translate the Hebrew word which, as far as we know, occurs in no other literary product, according to its meaning in Syriac? Or did the original contain an entirely different word for useless talk? It is undoubtedly a remarkable coincidence,<sup>83</sup> and it leaves no doubt in my mind that the root was not used by Sirach, and that the author of the Hebrew text took it over from a Syriac version of the original. If we tentatively substitute the new Hebrew הרגל or a synonym of it, it would read Hebrew more intelligible and familiar, though as yet *συμβουλευέω* in 8. 17 would not be accounted for.<sup>84</sup> But, if possible, another Hebrew word should be suggested that expresses more forcibly than הרגל frequent and intimate association, like that of the disciple with his master. Again we find *ἐνδελεχίζειν* (27. 12): "Among men void of understanding observe the opportunity." As Syriac has: "There is to speak always," Smend, in the absence of the Hebrew text, suggests להסתוד תמיד which the Syriac understood. And again in the Greek (7. 13): "Love not to make any manner of lie, for the custom thereof is not for good," *ἐνδελεχισμός* could very well be the rendering of הרגל, as in 37. 12. And lastly, for *τῷ ἐνδελεχίζοντι εἰς κακά* (12. 3): "There shall no good come to him that continueth to do evil," Syriac has: "to him that honoureth the wicked;" while Hebrew offers the totally unintelligible למנוח רשע! Whether this be vocalized מְנוּחַ or מְנִיחַ, it suggests no connection with the words underlying the Greek.<sup>85</sup> Here הרגל would not account for 'honoring' in Syriac.<sup>86</sup>

<sup>83</sup> See Lévi, *L'Écclesiastique*, 42: L'auteur fait un véritable abus de ce verbe aux ch. 8-9.

<sup>84</sup> In the Hebrew in 37. 10 הִרְגֵּל corresponds with that Greek word.

<sup>85</sup> Bacher in *JQR* XI, 1900, 278, translated it by 'no good cometh to one that affordeth rest to the wicked', and suggested that Syriac rendered the same Hebrew words freely, while Greek read it מְנִיחַ, one who alloweth wickedness to remain. See also Lévi, Peters, and Smend.

<sup>86</sup> In 30. 1 Syriac has נִחְדַּת וְקִתְוִי, renew his rods, which points to שֶׁנֶּהֱחִיף or שֶׁנֶּהֱחִיף but not הרגל.

The right conduct impressed by Sirach upon his law-abiding followers whom he contrasts with the sinners, especially humility, is forcibly expounded (2. 15): "They that fear the Lord will not disobey His words; and they that love Him will keep His ways. (16) They that fear the Lord will seek His good pleasure; and they that love Him shall be filled with the law. (17) They that fear the Lord will prepare their hearts, (18) and will humble their souls in His sight, (saying), We will fall into the hands of the Lord, and not into the hands of men: for as His majesty is, so also is His mercy." If the opening words may be taken strictly, the first dictate of the fear of God, as explained above, is obedience to His words embodied in the Torah. Sirach here follows Deut. 10. 12: "And now, Israel, what doth the Lord thy God require of thee, but to fear the Lord thy God, to walk in all His ways, and to love Him, and to serve the Lord thy God with all thy heart and with all thy soul; (13) to keep for thy good the commandments of the Lord, and His statutes, which I command thee this day!"<sup>87</sup> Whether Sirach meant by God's ways merely the life lived by the obedient Jew in accordance with the Torah, or whether in his opinion, as in that of the rabbis, the practice in life should follow the ways of love and mercy applied by God to every individual,<sup>88</sup> is not evident. By obeying the law the God-fearing seek to obtain His pleasure, as in Prov. 3. 4: ("By true lovingkindness) shalt thou find grace and good favour in the sight of God and man." That does not say that he is working for reward; nor is there any foundation for Dr. Oesterley's and other scholars' fine distinction between the Jewish and Christian attitude.<sup>89</sup> All actions

<sup>87</sup> Cf. Deut. 11. 22.

<sup>88</sup> Sifre Deut. 11.22, 49 אף אתה הוי אלא . . . אלך בכל דרכיו אלו דרכי הקב"ה . . . אף אתה הוי חסיד רחום וחונן ועשה כמות חסד לכל . . . אף אתה הוי צדיק . . . אף אתה הוי חסיד

<sup>89</sup> Cf. 3. 18: "The greater thou art, humble thyself the more, and thou shalt find favour before the Lord." God's חן is the result and not the object of the hu-

of man will be directed by the law which pervades his mind and his heart. It is therefore his duty to prepare his heart. The meaning of this difficult sentence is made clear by the parallel line: "and humble their souls in His sight," and by 2. 1: "My son, if thou comest to serve the Lord, prepare thy soul for temptation. (2) Set thy heart aright, and constantly endure, and make no haste in time of calamity..." As will be seen later on, that duty implies the strengthening of the mind for the days of trial by suffering and humiliation: only he who trained his will to submit to that of God expressed in His law, will gradually acquire the fortitude of surrender to God, when He tries him by visitation. The same is stated again (6. 37): "Let thy mind dwell upon the ordinances of the Lord, and meditate continually in His commandments: He shall establish thine heart, and thy desire of wisdom shall be given unto thee." If the word 'He' which is not expressed in the Greek is correct and not 'it', the line says that for his consistent study of the Torah God will grant him the firmness which will qualify him for the reception of the wisdom desired.

The observance of the law proves also a strong protection in trouble (32=35. 24): "He that believeth the law giveth heed to the commandment; and he that trusteth in the Lord shall suffer no loss. (33=36.1) There shall no evil happen unto him that feareth the Lord; but in

milition. The same is 32=35. 14: "He that feareth the Lord will receive His discipline; and they that seek Him shall find favour." Certain virtues and actions are liked by God, as in 1.27: "And in faith and meekness is His good pleasure"; the Greek *eudokia* corresponds with רצונו or חפצו. In 11. 17: "The gift of the Lord remaineth with the godly, and His good pleasure shall prosper for ever", the parallelism suggests that it is His active blessing bestowed on the obedient that is termed here as pleasure. In 34. 19=31. 23: "The Most High hath no pleasure in the offerings of the ungodly," it is נח, as in I Sam. 15. 22, as also in Sir. 35. 3=32. 5: "To depart from wickedness is a thing pleasing to the Lord," and in 35. 16=32. 20: "He that serveth God according to His good pleasure shall be accepted." Similar is 41. 4: And why dost thou refuse (to die), when it is the good pleasure of the Most High? and in 39. 18: At His command is all His good pleasure done; and there is none that shall hinder His salvation.

temptation once and again will He deliver him. (2) A wise man will not hate the law; but he that is a hypocrite therein is as a ship in a storm. (3) A man of understanding will put his trust in the law; and the law is faithful unto him, as when one asketh at the oracle." These four verses emphasize the effect of the determination of the obedient Jew to practise the law, and that of such practice itself. The wise man accepts the law as the expression of God's will, and therefore obeys its behests; gradually he grows to love it, that is, he adheres to it faithfully. Ultimately he puts his trust in it, so that, when he in daily life is confronted by religious or moral uncertainty, he need not consult anybody but the Torah which will solve his doubts, and direct him to the right action. The hypocrite in similar difficulties does not seek the guidance of the law, for he observes it in a disingenuous and hesitating way; consequently he is tossed about as a ship in a storm. When the obedient man is assailed by temptations, he is helped by God and will not succumb; for his firm hold on the Torah, attained by his consistent practice of it, trains and steadies his heart, his hesitation in trials will continue for a short moment only, and immediately yields to his determination to adhere to the law.<sup>90</sup> As was shown above, the fear of the Lord is in practice identical with the observance of the law; but its effect on man's soul is very deep (1.11): "The fear of the Lord is glory and exultation, and gladness, and a crown of rejoicing. (12) The fear of the Lord shall delight the heart and shall give gladness, and joy, and length of days. (13) Whoso feareth the Lord, it shall go well with him at the last, and in the day of death he shall be blessed. (14) The fear of the Lord is the beginning

<sup>90</sup> The Hebrew "לֹא יִפְתֶּן רֶגֶל בִּי בִטָּיִם" does not convey the idea of temptation so clearly; and also the whole group of the verses suggests different arguments. The curious "בִּטָּיִם" was already noted by the commentators as unusual, and "לֹא יִפְתֶּן רֶגֶל בִּי בִטָּיִם" is hardly intelligible; the Hebrew is altogether too artificial to be *surah's*.

of wisdom; and it was created together with the faithful in the womb." Here Sirach elaborates Ps. 19.8,9, the effects of God's Torah on the heart and the soul. His three synonyms for joy stress the feeling of satisfaction and happiness produced in man by the fear of God, the observance of the commandments. Consequently glory cannot mean outward honor, but the exaltation of the mind; besides, the later, outward effects of the fear of God (12, 13) are stated separately.<sup>91</sup>

Sirach's obedient follower is, however, in some respects not free from reproach (11. 21): "Marvel not at the works of the sinner; but trust the Lord, and abide in thy labour: for it is an easy thing in the sight of the Lord swiftly on the sudden to make a poor man rich. (22) The blessing of the Lord is in the reward of the godly; and in an hour that cometh swiftly He maketh His blessing to flourish. (23) Say not, What use is there of me? And what from henceforth shall my good things be? (24) Say not, I have sufficient, and from henceforth what harm shall happen unto me? (25) In the day of good things there is a forgetfulness of evil things; and in the day of evil things a man will not remember things that are good. (26) For it is an easy thing in the sight of the Lord to reward a man in the day of death according to his ways. (27) The affliction of an hour causeth forgetfulness of delight; and in the last end of a man is the revelation of his deeds. (28) Call no man blessed before his death; and a man shall be known in his children." As in Mal. 3.14, Ps. 37 and 73, Prov. 24. 1; 23. 17, it was the impatience of the obedient man at the sight of the sinner's worldly success that Sirach had to censure. For some of the good men were not only not blessed with fortune, but were even poor; and still they were expected to sustain their trust

<sup>91</sup> Cf. 10. 19-22; 15. 1-8.

in God and to feel reassured about His reward and His blessing. Sirach urges them to wait patiently for both, as they are sure to come, if not sooner, on the day of death; for it is the very end of man that reveals his past deeds. It should be noted that v. 27 refers best to the sinner who is enjoying a happy life, but will die in punishment; and while suffering only one hour's affliction he will feel it so heavy and crushing as to make him forget all the many joys and pleasures of his past life. Correspondingly we expect to find in the preceding verse a reference to the lifelong disappointments of the godly, the memory of which will vanish, when at the end of his existence delight is granted to him. In fact v. 25 states the two kinds of experience of the good man and the sinner, and is therefore the opening verse of the paragraph. Consequently v. 24 cannot contain the words of the godly who throughout his life did not receive sufficient happiness; but it is the statement of the wicked who, as in 5, 1, feels secure in his possessions. On the other hand, v. 23 must be the words of resignation of the pious man who no longer expects a turn in his fortune.

What his occupation was is not evident, as Sirach refers only generally to *ἔργον* (20), and *πόνος* (21) as opposed to the *ἔργα* of the sinner (21); but he advises him to stick to his work and to wax old in it. Evidently his ill-success in his present business prompted him to take up a new one. The warning (7. 15): "Hate not laborious work, neither husbandry, which the Most High hath created," suggests that some men began to reject the cultivation of the soil, and turned to trade. Sirach again (11.10) warns the pious man against undertaking many kinds of things, as they lead to sin. But what is the object of v. 20: "Be stedfast in thy covenant, and be conversant therein, and wax old in thy work?" According to the parallel line



the covenant seems to denote his trade, as also Syriac has אורחא; but how did the word come to that otherwise unknown meaning? It occurs again (38. 33): "They shall not sit on the seat of the judge, and they shall not understand the covenant of judgement; (45, 17) He gave unto him (Aaron) in His commandments, yea, authority in the covenant of judgements; (14, 12) Remember that death will not tarry, and that the covenant of the grave is not showed unto thee; (16, 22) Who shall declare the works of His righteousness, or who shall endure them? For His covenant is afar off?" The Hebrew has everywhere חק; but this does not fit in all the passages, and it is difficult to see why such a familiar word should have been translated by διαθήκη. Or did this word have for the translator some special meaning? Syriac renders it in 14. 12 by מרה, and it is possible that Sirach employed that new-Hebrew word; but just in 11. 20 where the context demands a word denoting trade, that Hebrew word is not suitable. Perhaps it was אומנות which would fit in 38. 33 and 45. 17, and which the Greek translator seems to have mistaken as derived from אמן and אמונה; so that מרה and אומנות respectively might have been used in the original.

Sirach taught his followers that for the good man it was not sufficient to refrain from heartlessness to the poor: he must also intervene actively, and assist the weak in asserting his endangered right. (4. 7): "Get thyself the love of the congregation; and to a great man bow thy head. (8) Incline thine ear to the poor man, and answer him with peaceable words in meekness. (9) Deliver him that is wronged from the hand of him that wrongeth him; and be not fainthearted in giving judgement. (10) Be as a father unto the fatherless, and instead of a husband unto their mother: so shalt thou be as a son of the Most High, and He shall love thee more than thy mother doth."

As far as I can see, the concluding appeal of the writer has in the commentaries not found the appreciation and the recognition which it fully deserves. The highest goal of the good man should be to become a son of God, and to earn His fatherly love; and to attain that is within the reach of everybody, if only he takes up the causes of the orphan and the widow, and delivers the wronged from the violent oppressor;<sup>92</sup> God becomes his loving father for having proved himself the father of the fatherless and the weak. In what capacity he could and should do so, is not evident at first sight; is he acting here as a judge? Whatever the case, the sense of the first two verses was not recognized by the commentators. For *συναγωγή* is not the synagogue and the congregation in it, but, as in the Greek rendering of the biblical passages used by Sirach in 45. 18; 46. 14; 16. 6; 21. 9, it represents the *עדה*,<sup>93</sup> an official body that met, as the context shows, to hear the complaint of the wronged person against him that had wronged him. The same is unmistakably meant in 41. 18: "Of an offence before a judge and a ruler; of iniquity before the congregation and the people," where the two assemblies correspond with *קהל ועדה* in Prov. 5. 14. The man addressed in 4.7ff. was evidently a member of such a judging assembly, and Sirach impressed upon it that, when a poor man brings a complaint before it, every member should listen to him, and speak to him gently; but the man to whom our author appeals specially should assist him in his right claim, and not be afraid of the wealthy wrongdoer and of the representatives of the latter's class in the assembly. We are not informed by any source about the procedure in that judicial body, whether after the hearing

<sup>92</sup> 9b seems to be an erroneous rendering of *עשה* with the accusative of the person, as in Is. 1. 17 *עשה רצון אלמנה* *עשה* which Sirach evidently had in mind: take up the cause of the fatherless.

<sup>93</sup> Only in 21. 24 where Dent. 33. 4b is quoted it stands for *קרלה*.

of the case the parties were, if necessary, questioned and cross-examined by any of the members, and then, as would be natural, the court divided.

The *μεγιστάν* mentioned here held in the assembly a prominent place (4. 7); and that information is borne out and supplemented by 33. 18=30. 27: "Hear me, ye great men of the people, and hearken with your ears, ye rulers of the congregation, *μεγιστᾶνες λαοῦ καὶ οἱ ἡγούμενοι ἐκκλησίας*. And in connection with the unmasking of the hypocrite Sirach says (1. 30) "Exalt not thyself, lest thou fall, and bring dishonour upon thy soul; and so the Lord shall reveal thy secret, and shall cast thee down in the midst of the congregation." The fear of God demands absolute honesty, its absence makes for hypocrisy before God and men; God naturally finds it out immediately, but it is hidden from men, as the smooth lips of the hypocrite deceive his fellow-men. In some unnamed capacity, perhaps as a member of the citizens' assembly, he appears before them with grandiloquent boasts that impress them, till at last, when his hypocrisy is revealed, he brings dishonor upon himself, and is in the presence of all the members cast down from his pedestal. This happened undoubtedly not in the synagogue, as Dr. Oesterley suggests, as for the unmasking of the hypocrite that was hardly the proper place. Nor does the gathering termed *ἐκκλησία* denote the congregation in the synagogue (31=34.11), as the same scholar confidently assumes; but, as the trial of the adulterous woman (23. 24) shows, it was the assembly of the people convened as a court of justice. And just as clear it is in the statement about the absence of qualifications in the farmer and the artisan for public offices (38. 33): "They shall not be sought for in the council, *βουλῇ*, of the people, and in the assembly, *ἐκκλησίᾳ*, they shall not mount on high; they shall not sit on the seat of the judge, and they

shall not understand the covenant of judgement: neither shall they declare instruction and judgement; and where parables are they shall not be found."<sup>94</sup> In the above list of the various public bodies the second clause refers to the rising of a member of the judicial assembly above his fellow-members, through his activities, as in 4. 7: "Get thyself the love of the congregation;" here the *μεγιστάν* seems to have been the chairman of the assembly, as he is placed next to the judge in 10. 24: "The great man, and the judge, and the mighty man shall be glorified." To him the member who is urged by Sirach to assist the just cause of the weak should pay respect, probably because the chairman may either allow him the necessary latitude for his intervention or may cut him short in his pleading.

As an illustration of the position of that judicial assembly the *ἐκκλησία* may be mentioned here which King Herod convened on several occasions, in order to submit to it for judgment the cases of men whom he accused of grave crimes. Josephus<sup>95</sup> states, "Herod accused *ἐκκλησίαν*, the officers and Teron, and incited the people to such an extent that they and the barber were killed on the spot by logs and stones thrown at them". In the parallel account<sup>96</sup> he reports, "When he had brought *εἰς ἐκκλησίαν* the three hundred officers who were accused and Teron with his son, and the barber who accused them, he (the King) charged them all; the people, *τὸ πλῆθος*, killed them by throwing at them whatever they found." In another instance<sup>97</sup> he says, "His excessive anger at that improved the king's condition, and he went *εἰς ἐκκλησίαν* and accused the men (who had broken down the golden eagle over the gate of the Temple) as real desecrators

<sup>94</sup> Though v. 33 is missing in the older manuscripts, it seems to contain good information about the public institutions in Jerusalem.

<sup>95</sup> *Wars* I, 27, 6, 550.

<sup>96</sup> *Antiquit.* XVI, 11, 7, 393.

<sup>97</sup> *Wars* I, 33, 4, 654.

of holy things (sacrilege),... and demanded that they be punished as profaners of the Temple, ἁσεβεῖς. Fearing lest many others be accused, the people asked him to punish first the originators of the deed, and then those caught in the crime, and to pardon the rest. The king could only with difficulty be prevailed upon, and burnt those alive who had let themselves down by ropes, as also the scholars, while the others who had been caught he handed over to his attendants for execution". Now, according to the parallel account,<sup>98</sup> the incident took place in Jericho: "The King sent them in fetters to Jericho, and called *Ιουδαίων τοὺς ἐν τέλει*, the heads of the Jews"; here the report stops, and says nothing of the proceedings against the accused men, which led up to their sentence. On a third occasion<sup>99</sup> Josephus relates, "The King brought those who had been tortured also *εἰς τὸ πλῆθος* in Jericho to accuse his sons; *οἱ πολλοί* killed them by stoning; when they were about to kill Alexander and Aristobul in a similar way, the King prohibited it by ordering Ptolemy and Pheroras to check the crowd." Though the judicial position of that *ἐκκλησία* and its powers are not at all clear, and it reminds us of the functions of the assembled people in I Kings 21. 9, 12, Deut. 13. 10, Jer. 26. 11–21 as judges and executioners, it is an instructive instance of the continued existence of an old institution.

It is not quite certain, as stated above, whether the passage about several social sins refers to the habitual sinners considered before or to a section of Sirach's followers of only average strictness in the observance of the law; for he presupposes that in their carelessness and their lack of self-control some of them committed deeds of immorality and dishonesty varying in character and degree. These are stated in a list of warnings which

<sup>98</sup> *Antiquit.* XVII, 6, 3, 160.

<sup>99</sup> *Antiquit.* XVI, 10, 5, 320, see G. A. Smith, *Jerusalem*, I, 464.

includes several other social failings, and which is at once interesting and difficult. It reads (41. 17): "Be ashamed of whoredom before father and mother; and of a lie before a prince and a mighty man; (18) of an offence before a judge and ruler; of iniquity before the congregation and the people; of unjust dealing before a partner and a friend; (19) and of theft in regard of the place where thou sojournest, and in the regard of the truth of God and His covenant". The admonition opens with a moral offence, loose, immoral acts: they are, or may become, known to the man's parents; these, of course, would, if the offence were liable to punishment, in no case bring it before a public judicial authority. As it is not sufficiently grave to be punishable by a court, and nobody else can call the moral offender to account, he is not afraid of public disgrace; only the shame before his parents deters him from beginning or continuing a loose life, and by referring to them Sirach tried to impress him. For the second offence, *ψεύδος*, he can be brought by the wronged person before the *ἡγούμενος καὶ δυνάστης*, evidently judicial officers of the first grade; for the third, *πλημμέλεια*, he would have to appear before *κριτῆς καὶ ἄρχων*, for the fourth, *ἀνομία*, before *συναγωγὴ καὶ λαός*. As only grave offences seem to have been brought before the last authority, *קהל* (Prov. 5. 14), the four transgressions enumerated here appear to be arranged by Sirach in an ascending order of gravity; and that may be helpful in defining them and the various courts more exactly. As to untruth in speech, Sirach denounces it very strongly (20. 24): "A lie is a foul blot in a man: it will be continually in the mouth of the uneducated. (25) A thief is better than a man that is continually lying; but they both shall inherit destruction. (26) The disposition of a liar is dishonour; and his shame

is with him continually."<sup>100</sup> Lying is due to his ignorance of the Torah, and as a moral defect it will adhere to his soul, just as a physical blemish does to the body. That Sirach considered the liar to be worse than the thief shows his high moral standard.<sup>101</sup> Lying occurred not in the lower and poor sections of the population, but (25. 2): "Three sorts (of men) my soul hateth, and I am greatly offended at their life: a poor man that is haughty, and a rich man that is a liar, and an old man that is an adulterer lacking understanding. (7. 12) Devise not a lie against thy brother; neither do the like to a friend. (13) Love not to make any manner of lie; for the custom thereof is not for good.<sup>102</sup> (15, 7) Foolish men shall not obtain her (wisdom); and sinners shall not see her. (8) She is far from pride; and liars shall not remember her. (9) Praise is not comely in the mouth of a sinner; for it was not sent him from the Lord."

But in spite of Sirach's high appraisal of truthfulness and his strong denunciation of untruth it is clear that it was not chargeable before a judge; consequently *ψεῦδος* must denote here an untrue statement of a more serious nature, perhaps the denial of a deposit, a loan or any goods entrusted. Any of those would naturally have been claimed before judges whose Greek descriptions perhaps correspond with *ראש וקצין* Jud. 11. 11, Mich. 3. 1,9. What kind of offence *πλημμέλεια* denoted which came before *שר ושופט*

<sup>100</sup> As the commentators note, here and throughout the book the uneducated is at the same time a sinner, as with the Stoics, and with Hillel in Abot 11.5 *אין בור ירא חסיד* אֵין בּוֹר יִרָא חֲסִיד; חֲסִיד וְלֹא עִם הָאָרֶץ חֲסִיד, cf. 20. 19: A man without grace is a tale out of season; it will be continually in the mouth of the ignorant. *Ἐνδελειχισθήσεται* could be the translation either of *נִחַ*, Prov. 14. 33, or of *נִכְצָא*, Prov. 16. 31, or of *לִן*, Prov. 15. 31, Job. 41. 14; 19. 4.

<sup>101</sup> Koeberle, *Suende und Gnade*, 446ff.

<sup>102</sup> The last line reads in the Hebrew *בִּי תְקוּהָ לֹא תִנְעַם*; Greek has for the noun *ἐνδελειχισμός*, Syriac *אחרית* = *חרה*. Smend refers to Job 11. 20 *והתקוה כפח נפש*, and Abot IV. 4: R. Levitas of Jamnia said, *כאד כאד הוי שפל רוח שהקות אנש רבה*, as the Hebrew has in 7. 17 *נאיה כי תקות אנש רבה* where, however, *ἐνδελειχισμός*, uninterrupted continuation, could be accounted for by it, I am unable to see.

(Ex. 2. 14, Mich. 7. 3) is very difficult to establish; and especially for that purpose it would be a great help, if the exact Hebrew equivalents of the various grades of judges could be ascertained.<sup>103</sup> When with the last and gravest crime which is judged by the people's assembly, the climax of the list is reached, Sirach in a new list groups together sins of a different order. The first is dishonesty between partners and friends which could be settled between them quietly without a court, and need not become publicly known. Next follows the crime of theft which is brought before the court of the town where the thief lives, and so everybody there learns of his disgrace. In connection with the third offence the words ἀπὸ ἀληθείας θεοῦ καὶ διαθήκης are undoubtedly a mistranslation, as after theft we should expect a graver crime against the fellow-man, and not against God only. By the help of אלה in the Hebrew text, the commentators recognized in θεοῦ the wrong translation of the word אלה misread by the Greek as θεός, God, instead of אלה, oath; and on the variant in the Alexandrinus Peters suggested instead of the first two words the reading ἀπὸ λήθης, forgetting, supported by the Syriac: "because he annuls oaths and promises."

To this last class of sins the habit of the frequent utterance of God's name in oaths has to be added (23. 9): "Accustom not thy mouth to an oath; and be not accustomed to the naming of the Holy One. (10) For as a

<sup>103</sup> The Hebrew text is for the purpose of little assistance, as it curiously reads (18): בארון ונברה על שקר כעדה ועם על פסע; and neither בארון nor נברה is ever found as the designation of any kind of magistrate or judge; and even the emended דין ונברה are a strange pair. Nor does ועם עדה for the no doubt technical ועדה in Prov. 5. 14, in spite of the translation of the LXX, ever designate the assembly of the people convened for judgment, though we find עץ in that capacity in 1 Kings 21. 9, 12, as עהל in Ezek. 16. 40. And how should καὶ ἀπὸ τῶποιοι οὐ παροικεῖς περὶ κλοπῆς correspond with וספקים תנור על זר, even after the emendation of the last word to זלזל? This does not mean theft, and is in 13. 16 correctly translated by ἄρπαγμα. The impression gained from the either impossible or vague words for the exact technical terms expected seems to me sufficient to rouse strong suspicion against the authenticity of the Hebrew text, and to suspect it to be a not very clear translation into Hebrew of an earlier translation of the original.



servant that is continually scourged shall not lack a bruise, so he also that sweareth and nameth (God) continually shall not be cleansed from sin. (11) A man of many oaths shall be filled with iniquity; and the scourge shall not depart from his house: if he shall offend, his sin shall be upon him; and if he disregard it, he hath sinned doubly; and if he hath sworn in vain, he shall not be justified; for his house shall be filled with calamities." It is not easy to recognize, and the commentators do not think it necessary to establish, the nature of the oaths about which three lines of v. 11 have to say much. First it should be noted that the Torah not only does not prohibit, but does not even object to, the use of God's name in oaths, as long as it serves as an affirmation of the truth. And Deut. 10. 20 expressly commands the Israelite to swear by the name of God, as opposed to heathen deities,<sup>104</sup> to affirm the truth; otherwise it is a profanation of God's name, Lev. 19. 12. Similarly the Decalogue, Ex. 20. 7, Deut. 5. 11, prohibits only the taking of God's name in vain, meaning as a support of an untruth, and it adds as the punishment **יִקָּה**. **כִּי לֹא יִקָּה**. As Sirach seems to have imitated it in his **לֹא יִקָּה מֵעַן** (Num. 5. 31), it might appear that he also was referring to the same sinful misuse of God's name.<sup>105</sup> But he may have thought of other oaths, as he again says (27. 14), "The talk of a man of many oaths will make the hair stand upright; and their strife maketh one stop his ears." When men or women of low standing quarrel, they not only abuse each other, but swear at each other in bad language and profanity. Another occasion for oaths is discussed in Num. 30. 3: "When a man voweth a vow unto the Lord, or sweareth an oath to bind his soul with a bond, he shall not break his word. (11) And if a woman vowed in

<sup>104</sup> Am. 8. 14, Ex. 22. 13.

<sup>105</sup> As already Smend suggested, the Hebrew word for uttering the name of God was probably **שָׁם**, as in Ex. 23. 13, Am. 6. 10.

her husband's house, or bound her soul by a bond with an oath... (14) Every vow and every binding oath to afflict the soul..." The same oath is probably meant in Lev. 5.4: "Or if anyone swear clearly with his lips to do evil or to do good, whatever it be that a man shall utter clearly with an oath, and if it be hid from him; and when he knoweth of it, be guilty in one of these things..." As in Sirach all the three possible offences against the oath are committed through an action, or through the neglect of the pronounced oath itself, that is *after* the utterance of it, the verses could not have possibly referred to an assertory oath to affirm some fact of the past, but could only have dealt with an undertaking viewing the future. Also the frequency and the lightmindedness stated here is best understood in such an oath. "If he disregard it, he hath sinned doubly", can only refer to the deliberate disregard of a vow supported by an oath uttered some time ago; and such neglect is a grave sin by which the original undertaking is retrospectively proved to be an oath in vain, which constitutes an additional offence. If he intends to observe his vow, but occasionally transgresses it, his sin rests on him.<sup>106</sup> If he swore in vain, inasmuch as he never intended to keep his voluntary vow, he will not remain without punishment, and his house will be filled with calamities.

The sin of the non-fulfilment of vows is referred to again (18. 19): "Learn before you speak; and have a care of thy health or ever thou be sick. (20) Before judgement examine thyself; and in the hour of visitation thou shalt find forgiveness. (21) Humble thyself before thou be sick, and in the time of sins shew repentance. (22) Let nothing hinder thee to pay thy vow in due time; and wait not until death to be justified (23) Before thou makest a vow,

<sup>106</sup> The Greek *ἐν πλῆμμελήσῃ* would best fit a deliberate sin, while Syriac expressly put a sin committed in error and suggests as the original *ܕܥܬܐ*, Lev. 5. 4.5 though in 42. 4 the same Greek word seems to be the rendering of *כַּעֲלָה* describing a grave sin.

prepare thyself; and be not as a man that tempteth the Lord. (24) Think upon the wrath (that shall be) in the days of the end, and the time of vengeance, when He turneth away His face... (27) A wise man will fear in everything; and in days of sinning he will beware of offence." Sirach is addressing here his follower who, as a rule, walks in the way of wisdom, but sometimes sins by mistake. Everybody can take care of his health by beware of sin, and it is especially important to guard against *πλημμέλεια*. These accordingly seem to represent a grave trespass, perhaps deliberate offences;<sup>107</sup> but the advice that, immediately on becoming aware of his sin, he should humble himself and repent, decisively points to an act committed unwittingly, to *שגגה* as in 23. 11. Before God judges and punishes him for it by visitation, he should inspect and examine himself, and having found his misdeed repent of it; then he will, when some calamity overcomes him, find forgiveness.<sup>108</sup> His repentance does not stop altogether the punishment decreed by God from setting in, but only reduces it; as he is never conscious of all his sins, he deserves the visitation which is sent to elicit from him confession and true repentance, and to teach him the lesson of the certainty of retribution. Another means for protecting his health is the fulfilment of his vows. To judge by the occasions on which the Psalmists uttered vows, our man, when in serious trouble in suffering from sickness, turned to God in devout prayer, and in obedience to human nature and in following the examples of the patriarchs and the Psalmists, supported his supplication by a vow. Sirach discountenanced vows lightly uttered, as such were made in distress, and looked like a bribe offered

<sup>107</sup> Cf. Ps. 19. 13: Who can discern errors? Clear thou me from hidden faults. (14) Keep back Thy servant also from presumptuous sins, that they may not have dominion over me; then shall I be faultless, and I shall be clear from great transgression.

<sup>108</sup> See above.

to God, and like tempting Him. Only if proper mental preparation preceded the vow, is it justified; without it it is a grave sin. But once it has been undertaken, its fulfilment must not be delayed until new illness brings new dangers to his life.<sup>109</sup>

*(To be continued)*

<sup>109</sup> Note that v. 24 is not the continuation of v. 23, but of the self-examination and the repentance impressed upon the sinner in v. 21: think of the sins unrepented

## THE HEBREW *NIPPA''EL* IN THE LIGHT OF COMPARATIVE PHILOLOGY

IN this REVIEW, 1921, pp. 25-32, Eitan has made a very important contribution to Hebrew grammar—nothing less than the discovery of a new conjugation. His conclusion that the *nippa''el*, or *nif'al* of the *pi''el*, is an infra-Hebrew analogical development like the Mishnic *nit-pa''el* is however, unnecessary; with the resources of comparative philology we may show that it is a Proto-Semitic phenomenon, which appears with various modifications in several other Semitic tongues.

The most primitive forms of the Semitic verb which have survived are the simple and the reduplicated, e.g., *dal* and *daldal*, "to hang," though we have reason to suppose that the original vocalization was more varied, and might include *i* and *u*, as well as *a*. There were probably dissyllabic forms as well, though it is certain that a large proportion of the triconsonantal stems have arisen, first by the blending of two biliteral roots of similar meaning, and secondly through the formation of the vast army of weak verbs, verbs with initial, medial, or final *u* or *i*, as well as by the reduction of reduplicated forms. A few illustrations may be advisable. The process by which new stems of all classes are formed by contamination and blending in Semitic is already familiar to Indo-European philologists, who call it *Mischbildung*, e.g., Eng. *slosh* = *slush* × *wash*: *slush* = *slime* (*slip*, *slide*, etc.) × *mush*. In modern Arabic, where the influences of assonance and rhyme-formation are no less strong than in Indo-European, the process is extremely common, which accounts especially for the vast number of quadriliteral stems now in use, though entirely unknown to the exhaustive native lexicons of the Middle Ages. Even in classical Arabic the principle was so transparent that the Arabic grammarians noted it. From the writer's own extensive collections we may note, e.g., *sanhaqa*, "bray" = *sahaqa* × *nahaqa*; *madmaha*, "rinse the mouth" = *madmada*, ditto × *mahada*, "shake water in pail, milk in churn." As a characteristic case of a slightly different type from classical Arabic note *baḥṭhara*, "scatter" = *baḥḥa*, "spatter" × *ṭharra*, "scatter." In Assyrian, e.g., *naṣaršudu* (*pršd*) "flee," is *parāšu*, fly" × *parādu*, "flee."

Once the dissyllabic, triconsonantal principle had triumphed, long before the separation of Egyptian or Babylonian from the parent stock,

the process of analogical conformation to the triconsonantal standard began. That the weak stems go back to biconsonantal roots is, in most cases, absolutely certain, since virtually every weak stem, or group of weak stems which share two strong consonants and a basic meaning in common, has a related reduplicated stem in some Semitic language. The task of interpreting and explaining the various types into which they have crystallized is, however, enormously complicated by the fact that morphological and paradigmatic contamination has gone on extensively in every Semitic language with which we are acquainted. Moreover, in Hebrew, Aramaic, and Assyrian phonetic changes have added their quota of embarrassment.

As is well-known, there is an intimate connection between the intensive, or *pi''el*, and the reduplicated *piłpel*, which shows itself in all the languages by their identical vocalization. This is due to the fact that the reduplicated root originally expressed repeated or intensified action or condition, just as in the Sumerian and Malayan, not to mention other tongues. The *pi''el*, in fact, is properly nothing but a reduced *piłpel*, in which we have progressive assimilation instead of retrogressive (as in Heb. *kikkar* for \**kirkar*, Assy. *šaššaru* for \**šaršaru*). This is again the result of the normative tendency, as is also the further extension of this characteristic vocalization to all the triconsonantal verbs. By a second extension of that analogy, new triliterals, *pu''ul*, are abstracted from the partially reduplicated *pi''els*. The correctness of our explanation is assured by the fact that the *piłpels* in which there has been retrogressive assimilation also form new stems, though not so many, in all the Semitic languages, especially Egyptian, Assyrian, and Aramaic (cf. Assy. Aram. *krk* = *krr*, both for *krkr*, "turn").

In all Semitic languages we have a special reflexive form of conjugation, in which the reduplicated stems most frequently, if not exclusively, appear. In Arabic we have the *t*-type—*tadaldala*—, in Hebrew the *hit* (originally a combination of causative and reflexive, as in Ar. *istaf'ala*)—*hitbalbel*. In Egyptian, on the other hand, we always find the *n*-reflexive—*ngšgš*, *nšrsr*. The same is true of Ethiopic—*anṭabāba*, *angargāra* (apparently a blend of the causative and reflexive, as in Heb. and Ar.). In Assyrian the *n*-type prevails, but in a slightly modified form which is closely analogous to the Hebrew *nippa''el*: e.g., *nagarruru*, from *grr*, "roll" obviously representing an original \**nagarguru* (following the Assyrian infinitive vocalization in the derived conjugations), and thus being, both in origin and in form, a *nif'al* of the *pi''el*. In Assyrian triconsonantal verbs are admitted to this conjugation in a peculiar way,

with the addition of *u*, e.g., *nīqilpū*, "float," for *\*naqalpū* (*qlp*), *nabalū*, for *nabasū*, "stretch" (*bst*). This is evidently an analogical conformation to the full quadrilateral type *nabalkutu* (*blkt*) and *naparšudu* (*pršd*; see above), just as *ḥadu* (חדה) "rejoice" is conformation of the root *ḥd*, "be alert," to the triconsonantal type.

Jerusalem.

W. F. ALBRIGHT.





## JOSEPH KIMḤI'S "SHEḲEL HA-ḲODESH"

WE ARE in need of editions of our medieval classics, and we should be grateful for each and every effort which is made to bring some of the hidden treasures from the obscurity of the manuscript alcove to the light of the published shelf. The workers in this field are few, and the material awaiting the skill of the scholar is abundant and no time has been less propitious for the cultivation of this branch of research as the period which we have just passed through. It is therefore refreshing to find that, despite the turmoil and the upheaval which shook the world to its foundations, the Rev. Professor H. Gollancz has had the tranquillity of mind to continue his industrious labors and add one more important volume to our classics.

The "SheḲel ha-Ḳodesh" of R. Joseph Kimḥi, which is a collection of proverbs and maxims in metrical form, is a work that commands our attention on its own account as well as on account of the literary problems which it brings in its trail. "Proverbs"—remarked a well-known littérateur—"are the treasures which antiquity has bequeathed to posterity. They form the oldest contributions to the history of mankind. They are pearls of wisdom with which the human genius likes to decorate itself. They are the household gods which have accompanied mankind through all countries and in all ages." The Jewish genius has always been fond of the proverb and the maxim, as can be seen from almost every page of the ethical and philosophical literature of the Middle Ages (my own still unfinished collection of proverbs from this branch of literature numbers already about 10, 000). Yet, there are but few works of a purely gnomic character in the entire Jewish medieval literature. Discounting Ben Sira as belonging to an earlier period, and the two extracts from an early book of maxims published by Harkavy (המורה, Crocow 1903, pp. 103-108) and Schechter (*JQR.*, XVI, p. 425-442), as too fragmentary, we have the *מִכְרֵ הַשֶּׁקֶל* ascribed to Hai Gaon, Samuel ha-Nagid's *בֵּן מִשְׁלֵי*, Ibn Gabirol's *כְּבַהַר הַפְּנִינִים*, Ḥarizi's *מִכְרֵ יָסֵד הִירָאָה*, Bedarshis' *הַפְּרָדֶּס*, and the anonymous *יְסֵד הִירָאָה*.

*SheḲel Haḳodesh (the Holy Shekel).* The metrical work of Joseph Kimḥi now edited for the first time from MSS. at the Bodleian, with an English translation, introduction, notes, etc. to which is added *Yesod Hayirah* (The foundation of Religious Fear) from MSS. in the British Museum, with an English translation and notes by HERMAN GOLLANCZ, M. A., D. Lit. OXFORD UNIVERSITY PRESS. London 1919. 89 pp. XX, 125, 7, 87

and *יפניי המליצות*. The *Sheḡel ha-Ḳodesh* is therefore a welcome addition to this small group of wisdom literature.

Unlike the other books, however, the *Sheḡel* practically adds nothing new to our stock of maxims. The author himself lays no claim to originality. He found the proverbs expressed in prose, some in Hebrew and some in Arabic, and he took upon himself the task of putting them in a metrical garb. According to the superscription found in one of the MSS. from which the book is edited (MS. B) the author plainly states that his work is based mainly upon Ibn Gabirol's *Mibḡar* (*Sheḡel*, p. 63, note 5). The truth of this statement is now forcibly corroborated by the table of comparisons, which the editor has drawn up, showing that out of the 431 couplets in the *Sheḡel*, 367 find their parallels in the sentences of the *Mibḡar*.

Whether the *Sheḡel* is an improvement upon the *Mibḡar* is an open question. Some of us would very likely prefer the terse unpolished sentences of the *Mibḡar* to the highly artificial and involved verses of the *Sheḡel*. But as an exercise in metrical composition the *Sheḡel* is certainly an interesting contribution. According to the tastes of those days *Ḳimḡi*'s work was a distinct literary achievement. Be this as it may, it brings with it the problems whether the *Mibḡar* in its original Arabic form was the work of Gabirol or not and whether the Hebrew translation is indisputably the work of Judah Ibn Tibbon. Until now the authorship of Gabirol was under suspicion because we have no further evidence for it than the passage in *Ḳimḡi* (according to MS. B alluded to above), which remained unnoticed by all Jewish scholars who made use of the *Mibḡar*. Upon this head the editor has gone to great length in citing the opinions of almost all his predecessors (*Sheḡel*, pp. IV-VII), but he comes to no better conclusion than that "as the once reputed author of the *Mibḡar*, R. Yedaya Hapenini, was disowned, so R. Solomon Ibn Gabirol, who since then has enjoyed the reputation of being the author, may yet be dislodged from this pedestal, and the honour (at all events in part) transferred to another" (*ibid.*, pp. X-XI). But it seems to me that since the part of the superscription relating to the dependence of the *Sheḡel* upon the *Mibḡar* has been proved to be true, there is no reason to doubt the truth of the other part of the superscription, which assigns the authorship of the *Mibḡar* to Ibn Gabirol and its Hebrew translation to Judah Ibn Tibbon. In this connection it

<sup>1</sup> I have not included such works as *מכתבי י"ן*, Munkacs 1905, *כתר חכמה*, Jerusalem 1881, *מסלי חכמים וחרותם*, Mantua 1592, *עצת חכמים*, Salonica 1827 and *נעם הפרות* of Nathan Anram, Königsberg 1857, because some of these are too modern and others are compilations based on previous collections.

should be pointed out that the editor has overlooked the very important biography of R. Joseph Kimhi by Geiger (אוצר נחמד, I, 97-119 and again in קבוצת מאמרים edited by Kirchheim, pp. 1-24). Geiger devotes a long paragraph to the *Shekel* which should have been brought to the attention of the reader. It might also have interested the reader to know the suggestion, put forth some time ago, that in all probability Judah Ibn Tibbon entertained Joseph Zabara with his translation of the *Mibhar* when the latter passed through the city of Lunel (Davidson, *Sepher Shaashuim*, p. XL). And since Zabara was a friend of Joseph Kimhi there is a likelihood that Kimhi likewise was not uncognizant of Ibn Tibbon's translation.

In regard to the method of presenting the text I must own that I am entirely at variance with the editor. He prints the text of one MS. and gives the variants of the other MS. in the notes. This throws the burden of reconstructing the text entirely upon the reader, a method which belongs to the early stages of editorial work. Of a modern editor it is expected that he present the text in as perfect a form as possible, using the variants merely as evidence for the emendations and corrections. Besides this, the fact that the text appears in one part of the book, the translation in another and the notes and variants in still a third makes the reading of the book a real weariness of the flesh. On the other hand, we are thankful to the editor for numbering the chapters and the stanzas, since it diminishes the labor in searching for the translation and the notes.

For the translation I have much praise. Dr. Gollancz has succeeded in reproducing the spirit of the original while being as literal as possible. The language is clear, concise, and correct as far as the text is before us. This compensates, in a measure, for the omission of the vowel points, without which no poetic text should be issued.

The editor has also done well in printing the couplets found on the fly leaf of a MS. copy of the *Moreh Nebukim* in his possession (Hebrew part, pp. 84-87), for they are indeed identical with the verses interspersed in Kimhi's commentary on Proverbs (as suggested by the editor in the introduction, pp. XVI-XVIII) and in many instances they offer better readings. The editor, however, seems to be unaware of Dr. S. Eppenstein's emendations and corrections to Kimhi's commentary on Proverbs based upon the Munich MS. (See *ZfHB.*, V, 143, 178; VI, 24) from which he could have gathered several important variants for these couplets.

In regard to the text itself the editor has left much that is to be

desired. In the first place he did not have before him all the MSS. extant, though this was a matter over which he had no control, owing to the continuance of the war. That the edition suffered thereby can be seen from the large number of better readings which J. Weill has given according to the Paris MS. (See *REJ.*, vol. 70, pp. 216-223) designated below as MS. C. But aside from this, the editor has not done justice to the text with the material that was before him. There is no doubt that every stanza of the *Sheḡel* is constructed according to a certain metre, as the name *Sheḡel* implies. Again, it is self-evident that every stanza has its own particular rhyme. If the editor had paid attention to this phase of the verses he would have avoided many errors in the text as well as in the numbering of the stanzas. To illustrate this point I give here a list of corrections in the first chapter, suggested merely by the metre and the rhyme.

Chap. I, No. 1a: שלם is against the metre, read שלום.

4b: אָל as in MS. B is correct according to the metre.

6c: Rhyme and metre show that this is a new stanza.

8b: Metre requires אָל instead of וואָל.

10c: Rhyme and metre show that this is the beginning of a new stanza. The correct reading as given by J. Weill according to MS. C (*REJ.*, vol. 70, p. 119) shows that this couplet consists of 16 vowels in each verse, whereas 10a-b consists of a combination of תַּנְיָה and יֵתֵר.

14c: Rhyme and metre show this to be a new stanza.

17b: Metre requires וַתִּשְׁאַר instead of וּמִשְׁאַר. It is so in MS. C.

17c: Rhyme shows this to be a new stanza. Metre requires אַת פִּנִּי as in MS. B.

19a: Metre requires לַקְשׁוֹב as in MS. B.

19b: יֵהִי is against metre and is not found in MS. A or C.

25: This couplet as it stands now is hopelessly corrupt. By comparing it with the sentence in the *Mibḡar* (No. 30) of which this is a metrical version, I venture to reconstruct it as follows:

בְּאַרְבָּעָה בָּמֶר לָךְ בֵּן וַתִּשְׁכַּח  
וּמִדָּבָר בְּמִישֵׁי סִיר וַתִּשְׁקַד  
הִנֵּה חֶקֶם, וְאִם לֹא, תִּדְוָד לִנְדָּר  
וּמִאִיִּן, אִי אֶהוֹב דָּמָר, וְלֹא תִּמָּד

The passage in the *Mibhar* reads וְצוּהוּ הַחֲכָמִים אֶת בְּנוֹת הַיָּהוָה חֲכָמִים וְלִמֹּד אוֹתָם הַחֲכָמָה וְאֵל תְּהִי הַחֲמִישִׁית פֶּן תֵּאבֹר וּמֵאֵינָן. The reading of דְּתִי for דָּת is supported by MS. B which according to the editor reads דְּתִי. Undoubtedly a י for יָ. The last word תֵּאבֹר is partly supported by the same MS. which reads תִּמְרָה. With reference to Ps. 46, 3 (לֹא נִירָא) it fairly reproduces the phrase פֶּן תֵּאבֹר of the *Mibhar*. As to the meaning of דְּבַר חֲמִישִׁי in the second line, the commentator in the Cremona edition says: שֶׁהַחֲמִישִׁית הוּא חֲלוּף מִמָּה שֶׁהוֹכַרְתִּי. This, however, is not quite satisfactory. Fortunately I find this sentence of the *Mibhar* cited in Kimhi's commentary on Proverbs (סֵפֶר חֻקָּה, p. 4 1. 13 from below) as follows: וְאִמְרוּ הַדְּמוּת הִיָּה חֲכָמִים אוֹ לִמֹּד אוֹ מֵאֵינָן דְּבַר חֲכָמִים וְאִמְרוּ הַקְּדֻמוּת הִיָּה חֲכָמִים וְאִם לֹא תִּיכַל הִיָּה מֵאֵינָן דְּבַר חֲכָמִים וְסוּר מִדֶּרֶךְ הַרְשָׁעִים תִּיכַל הִיָּה לִמֹּד וְאִם לֹא תִּיכַל הִיָּה מֵאֵינָן דְּבַר חֲכָמִים וְסוּר מִדֶּרֶךְ הַרְשָׁעִים. This suggests to me to reconstruct the second line as follows:

וּמִדֶּרֶךְ הַרְשָׁעִים סוּר וְהִשְׁמַר

26a: Read אֵל תְּהִיָּה.

30b: Read אֵנִישׁ as in MS. B.

32c: Read יִקְנֶא.

33b: Read עִם אֲחֵלְמָה as in MS. B. or 6.

36: As it stands the metre in this couplet is corrupt.

The correct version is given in Asher's edition of the *Mibhar* in a note on No. 50 of which this stanza is a metrical version, and strange to say the version is taken from the Oppenheim MS. of the *Shekel* which is identical with MS. B. used by the editor (See *Shekel*, p. XVIII and Asher's edition of the *Mibhar*, p. XXIII, No. 52, and p. 10 note a). This version reads:

לְדֹרוֹשׁ תְּבוּנָה וְחֻקִּיִּךְ הַכֶּכֶּה  
כָּל עֵיר וְכָל קָדוֹם הָיָה סִתֵּר  
כִּי אִם תְּהִי קֶטֶן בְּעֵם אֶחָד  
הִנֵּה קָדוֹל בְּעֵם אֶחָד

40a: The metre requires לִבֵּב instead of לֵב.

40b: הוּא as in MS. B. is the correct reading according to the metre.

40c: Rhyme shows this to be the beginning of a new stanza.

46c: The metre demands לֵז as in MS. B.

48a: Instead of יִשָּׂא the metre requires יִשֵּׁ as in MS. B.

52a: Read תִּתְכַּבְּדֶּה.

53a: Metre requires וְשִׁיר זָבִיר as in MS. C.

53c: Rhyme and meter show this to be the beginning  
of a new stanza

The number of corrections that could be made in the remaining chapters, along the same principle, is proportionally as large, but the above examples are sufficient for our purpose. It is to be hoped that in his future labors in this field Dr. Gollancz will not take Dukes and Edelman for his models but will rather follow in the footsteps of Luzatto and Senior Sachs and their modern disciples, and then we shall really be thankful to him for his industry and zeal and his untiring devotion to the advancement of medieval Jewish literature.

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## ILLUSTRATED HAGGADAHs

THE Passover Haggadah is one of the most frequently printed Hebrew books. Wiener in his special bibliography enumerates over 900 editions between 1500-1900. The Seminary collection of about 700 numbers includes over 150 of this period which remained unknown to Wiener. The well-known book of D.H.Müller and Schlosser contains a great amount of information on illuminated Haggadah MSS. The researches of these writers were continued by Kaufmann, Schwab and others. The illuminations of the printed Haggadahs have not as yet been treated adequately; they nevertheless offer an attractive subject to the student. Schlosser, *Die Haggadah von Sarajevo*, p.222-226, has established their dependence on the younger circle of German illuminated Haggadah MSS. From these they took the picture of the "Hasenjagd" caused by the similar sound of Jaknehas (יִקְנֶהָ, the formula for the arrangement of the blessings of the Kiddush) with "jag' den Has." German influence in the Haggadah is also shown in the inclusion of a Judeo-German translation of some of the songs at the end of the Haggadah. A considerable number of illustrations from various old Haggadahs, especially from the one printed at Mantua in 1560, have been reproduced in Hermann's *Chad-Gadja*. Zlocisti's essay on the "Pessach-Haggadah" in the same volume contains a few remarks on the subject of the illustrations. The same writer described the Mantua Haggadah at some length in *Ost und West*, vol. IV, 4, April 1904, where more reproductions are given.

An examination of a number of the illuminated Haggadahs of our collection reveals how much the old and new printers copied from one another and how a few types of illustrations, although representing dress and character of the people of a certain time and country, were used repeatedly with very little adaptation to different countries. A few remarks on this subject will not be out of place.

In the first separate edition of the Haggadah, 1486, we find two ornamental letters (לחמא עניא) **הא**, and the words **מָצָה** זו **מָרֹר** זה are printed in large round ornamental frames which evidently had been used considerably by the printers previously, to judge from their condition. In the preceding year the same printer, Soncino, had used in his Maḥzor the same letters for **הא**, but had printed the word **מָצָה** in ornamental letters instead of the plain ones used in the Haggadah.

In 1512 Thomas Murner in connection with the Reuchlin-Pfefferkorn controversy produced a Latin translation of the Haggadah embellished(?) by wood-cuts drawn by his brother Beatus representing groups of three Jews at the table in various poses, all very unattractive.

The first illuminated Haggadah, which appeared in Prague in 1526,<sup>1</sup> was strongly influenced by the German art of the time. This Haggadah makes a very pleasing impression and is a fine specimen of early book making. Its reprint of 1550 which I have not seen (like the later Prague reprints of 1590, 1606, 1625, etc.) is inferior according to Schlosser (p. 224-225), but has some additional pictorial material.

The next illuminated Haggadah known to me, that of Mantua 1560,<sup>2</sup> probably follows one of 1550 of which no copy is extant. It is of very different character from that of 1526. A glance at it clearly reveals the influence of the Italian Renaissance; on the other hand its selections of the subjects and pictures indicate that in many ways it follows its northern predecessor. In both of them, e.g., we find a picture of Pharaoh taking a bath in the blood of murdered Jewish children which Eisenstein traces back only to the 1629 Haggadah. The most marked difference between the two Haggadahs is the fact that the Mantua printer uses all through his book different illuminated borders which evidently had previously served for non-Jewish books and in which heterogeneous blocks are frequently used juxtaposed, sometimes without fitting into the place reserved for them. The figures used for illustrations in the earlier part of the Haggadah are repeated in the latter part where, having no relation to the text, they merely serve as illuminations, interrupting the monotony of the borders. The same illuminations were largely used again, though partly in different arrangement, in the Haggadah of Mantua 1568. Here, however, there is a new title page and part of the margin is filled out by the commentary of the editor, Joseph ben Jacob of Padua. In this edition the pictures frequently are described by a short heading making it more evident how the same picture is used to represent altogether different persons. Thus the same cut, based on Michelangelo's Moses (Schlos-

<sup>1</sup> Recently many of the illustrations of this very rare book have been made generally accessible in smaller size by Dr. Karl Schwarz in his *Juedische Bucherei*, Band 3: *Die Prager Hagada von 1526. 19 Abbildungen aus dem ersten Holzschnitt-druck der Passah Hagada*. Berlin, FRITZ GRIFFIT, 22 pp. and 3 pp. at the end by the editor.

<sup>2</sup> No 4 of the same collection contains: *Die Mantuaner Hagada, 18 Abbildungen aus dem Holzschnitt-druck der Passah Hagada*; 22 + 4 pp.



ser, p. 225, where the reproduction is taken from this edition, not from that of 1560), is used to represent a learned father answering his son's questions, Rabbi Eliezer and Rabbi Akiba. The borders are not quite so much used in this edition; in their place we see in the early pages a few new illustrations representing preparations for the Passover.

About 1600 there appeared in Venice a series of Haggadahs of smaller size in which the same pictures are used as in the Mantua Haggadahs, but in somewhat reduced size and therefore from new cuts. Some of these Haggadahs also have small borders. I have before me five such editions printed between 1599-1604.

An entirely new set of illuminations meets us in the series of editions of the Haggadah beginning in 1609 which contain Leon Modena's translation. According to the title page of the second edition (1629) their author was the well-known printer Israel Zifroni. Besides the larger figures we have here a great number of different initials with small pictures illustrating the respective paragraphs. It is only natural that Zifroni could not free himself entirely from the influence of the earlier pictures which apparently had been in traditional use for more than half a century. We therefore find some of the old motives, as e.g. the above-mentioned picture of Pharaoh. These cuts were repeated again and again; we find them, for instance, in the reprint of Venice 1740. Many of them were imitated in the copper plates illustrations of the fine Amsterdam Haggadah of 1712 where they are combined with another set of drawings found already in the Amsterdam Haggadah of 1695<sup>3</sup> famous for the addition of a map of Palestine on which the wanderings of the Jews in the desert and the territories of the twelve tribes are indicated in mediaeval fashion by Abraham ben Jacob. This engraver is probably responsible for the copper plates in both editions (see Da Silva Rosa, *Iets over den Amsterdam'schen Opperrabbijn Isaac Aboab*, Amsterdam, 1913, p. 18). The pictures of the 1712 Haggadah we meet again e.g. in a Vienna Haggadah of 1823. Whether there is any relation between these pictures and those of the Amsterdam edition of 1662 inaccessible to me I cannot tell.

There is only one Haggadah in the XIX century which tries to leave the beaten path of coarse reproductions of the illustrations of its predecessors and shows a refined artistic taste in its whole make-up. I mean the edition of Abraham V. Morpurgo, Trieste 1864, with

<sup>3</sup> Many of the illustrations but not the map are reproduced in no. 5 of the *Juedische Bucherei*: Die Amsterdamer Hagada. 18 Abbildungen aus dem Kupferstichdrucke der Passah-Hagada. 20+7 pp.

and without Italian translation. This edition is printed in beautiful type with pretty initials. While many of its illustrations are somewhat stiff and not very original and do not come up to our idea of a beautifully illustrated book, they are dignified and pleasing and make this edition outstanding among its contemporaries.

These remarks only intend to draw attention to the interesting question connected with the history of the illustrations of the printed Haggadah. The few facts mentioned revealed themselves to me while glancing through some of the older Haggadahs of our Library. In order to make a really valuable investigation it would be necessary to examine all the illustrated Haggadah editions. The various editions of the *Birkat-ha-Mazon* and the *Minhagin* containing similar illustrations ought to be considered in this connection as well as the various works of the illustrations of the Bible in former centuries, which may have had some influence on the Haggadah illustrations.

This examination of our Haggadahs was caused by the appearance of two works which intend to put before us new Haggadahs with modern illustrations. Just as the earlier Haggadahs show a distinct uniform character, so also do their modern successors. The spirit, however, is very different in the book before us. In Eisenstein's Haggadah<sup>4</sup> the illustrations are strictly modern, but hardly in harmony with the atmosphere prevailing during the Seder. They remind one too strongly of caricatures and lack the nobility and spirituality and the Oriental background of the historical facts. Thus the רשע who in the older haggadahs appears in the character of a "Landsknecht" is represented by the illustrator Lola as a prize-fighter!

The Haggadah illustrations of Budko<sup>5</sup> are on quite another plane. Here we have the work of a real artist who does not try to express every word of the Haggadah in a commonplace fashion, but who selects those points which appeal to his imagination and tries to give them expression in a way which is in keeping with the old account of the most important event in the history of the Jews. In one of the pictures we see the fine faces of the five old scholars gathered in Bene-Berak which accords well with the pictures of these old masters of the Mishna which our imagination may have created. Their faces

<sup>4</sup> OZAR PERUSHIM VE ZIYURIM EL HAGADA SHEL PESAH. A compendium (in Hebrew) of Authoritative Commentaries and Original Illustrations on the Hagada the narrative of Israel's Redemption from Egypt for the Passover-night ritual. Appendix: The Song of Songs with pictures. Compiled, edited and annotated by J.D. EISENSTEIN. Illustrated by LOLA. New York, J.D.EISENSTEIN, 1920. pp. VI+346

<sup>5</sup> הרגה של פסח עם ציורים מאת יוסף בודקו. Vienna, LOEWIT, 1921. pp.41

show how deeply they are engrossed in their discussions which have lasted the whole night. The light begins to shine through the window at which we observe a group of their pupils. On another page we find a striking picture illustrating the paragraph **והיא שעמדה**. We see the wandering Jew passing through the desolate wilderness, a man lonely but unbroken by the weight of the centuries. The Haggadah contains many beautiful initials, some of them simple illuminations, others representing fine little pictures, e.g. of the four sons. It is a great pity that the reproductions, especially the smaller pictures, are in many cases rather indistinct. They are a little better in the hundred copies printed on special paper, but cannot compare with the original illustrations published in a few, I understand 30 copies in a portfolio.

Budko's Haggadah contains only the plain text printed in an attractive type and style without any addition other than the pictures. Eisenstein's Haggadah is a much more ambitious undertaking in which the illustrations play only a minor rôle.

The edition accompanies the text with notes referring to the customs and laws of the Seder as well as to the origin of the various parts of the Haggadah. These notes are on the whole an extract of Landshut's **מניח מראשית** which appeared 65 years ago. As the book has been out of print for a long time a complete reprint would have been more welcome than this partial recast. Of the literature on the subject which has appeared since that time the editor has taken little notice. He does not know that a number of Haggadah MSS. have turned up in the Genizah in which the **מה נשתנה** is found in the old form and actually only contains three questions (see JQR, X, 44, 47, 48, ZfHB., XV, 123) just as in the Palestinian version of the Mishna. The reading **אמר להם רבי אלעזר** which is also found in the *Shibbole ha-Leket* and in an old Haggadah MS. of our Library, occurs in the Cambridge MS. of the Mishna ed. Lowe and has been discussed by Ehrentreu, *Jahrbuch der Jüdisch-literarischen Gesellschaft*, XI, 209. Instead of the four sons mentioned in the Haggadah originally there were two versions one speaking of **טיפש**, **חכם**, and **שאינו יודע לשאול**, the other of **רשע** and **תם** which later were combined by identifying the **טיפש** with the **תם**. As Hoffmann pointed out in the *Magazin*, 1886, 14, 15, p. 164 (comp. also his remark in Daiches, **בית ועיד להכמים**, No. I, p. 13-16 and **העברי**, II, 14, 15, p. 164, 65), the reading **אותנו** in the answer of the **חכם** occurs in the oldest editions as well as in the older MSS. of the Haggadah. No notice is taken of the many fine remarks in Lewy's *Vortrag über*

*das Ritual des Pessach-Abend*, Breslau, 1904. It is inconvenient that owing to the difficulty of typographical arrangement the notes in some places are not found by the side of the passage to which they refer. The Haggadah is followed by the text of Shir ha-Shirim with Lola's illustrations.

As a second part of the volume Eisenstein reprints ten commentaries on the Haggadah in their complete text from old, though not always first editions. He begins with the famous Commentary of Abravanel (p.61-131) which accompanied the second edition of the Haggadah (1504). On account of its length it had been printed merely in extracts by the publishers of the last three centuries. Eisenstein reproduces the Venice edition of 1545. It is followed by the Commentary of the Maḥzor Vitry which the editor constructed on the basis of the Hurwitz edition of the British Museum MS. and that which was published from another MS. in the Haggadah of Vilna, 1886; perhaps the latter manuscript is the one to which Abraham ben Elijah Wilna refers on p.19 of his *רב פעלים*. Instead of the text of the *כל בו*, p.143-47, it might have been better to reproduce its prototype from the rare *ארחות חיים*. The identification of the *כל בו* with the *ספר הנייר* is impossible as we know from the MSS. of the latter books in Oxford and in our Seminary. P.147-165 we get the Commentary of Zedekiah Anaw from Buber's edition of *Shibbole ha-Leket* and p.166-179 that of David Abudraham. P.179-263 the respective parts of R. Loewe ben Bezalel's *נבורת השם*, chapters II and XLIVIII-XLIX, are reprinted, but numbered consecutively as 1-19. The later Haggadahs only contain short extracts from this book. P.264-290 we get the commentary of Moses Al-Sheikh and p.291-299 the respective parts of the *שליה*. The Commentary of Jacob Emden p.291-307 from his *Siddur* and that of the Vilna Gaon conclude this part of the book. For the Gaon the editions of Vilna 1868 and 1880 contain an explanation of the latter part of the Haggadah including two commentaries on Had-Gadya. We also find here the remark that the commentary on Psalm 115 is not by the Gaon.

The third part (p. 317-346) contains short articles on Egypt, a few haggadahs about the Exodus, laws and customs in reference to Passover and a very short description of the Samaritan Passover. A brief interpretation of Shir ha-Shirim concludes the volume.

The selections of the commentaries can be approved of. It is useful and convenient to have these older works once more accessible in full instead of in the arbitrary selection of some irresponsible

publisher. The editor might have done well to include in his volume the few other older commentaries which have been printed, those ascribed to Rashi, Samuel ben Meir and Yomtob ben Abraham of Seville, all of which appeared first in the Haggadah פה ישרים, Livorno, 1838, and that of Rabbi Isaiah da-Trani, Cracow, 1896. They would have increased the size of the volume but little and would have added to its usefulness. Perhaps some readers would have liked to find the stories of the Dubno Maggid in the volume.

The volume published by the Jüdischer Verlag<sup>6</sup> aims to put into the hands of the German reader a popular and attractive book which not only contains the translation of the Haggadah in very good German, but also various essays and short stories centering around the Haggadah and the celebration of the Passover eve.

The volume begins with the translation of the respective passages of the Pentateuch followed by the German Haggadah and Zlocisti's above-mentioned essay. Under various headings Midrashic sayings referring to the occasion are given. We get sketches of the Passover in the Caucasus and in Yemen as well as among the Samaritans. The respective chapters of Pauline Wengeroff's "Memoirs" and Konipert's "Ghetto Sketches" describe the Passover and the preparation for it seventy years ago while the translation from *Shebet Yehudah* deals with the sacrifice in Jerusalem in the Roman period. A concluding sketch, "Die Chagigah von Rechoboth", by Julius Heilbrunn, brings us down to our own times. Heine's "Rabbi von Bacharach" and sketches by Mendele, Peretz, Buber, and Agnon, and the poem of Bialik add to the attractiveness of the volume. The illustrations from old Haggadahs throughout the volume were referred to above. Their sources are enumerated in the editor's notes, p. 219-221.

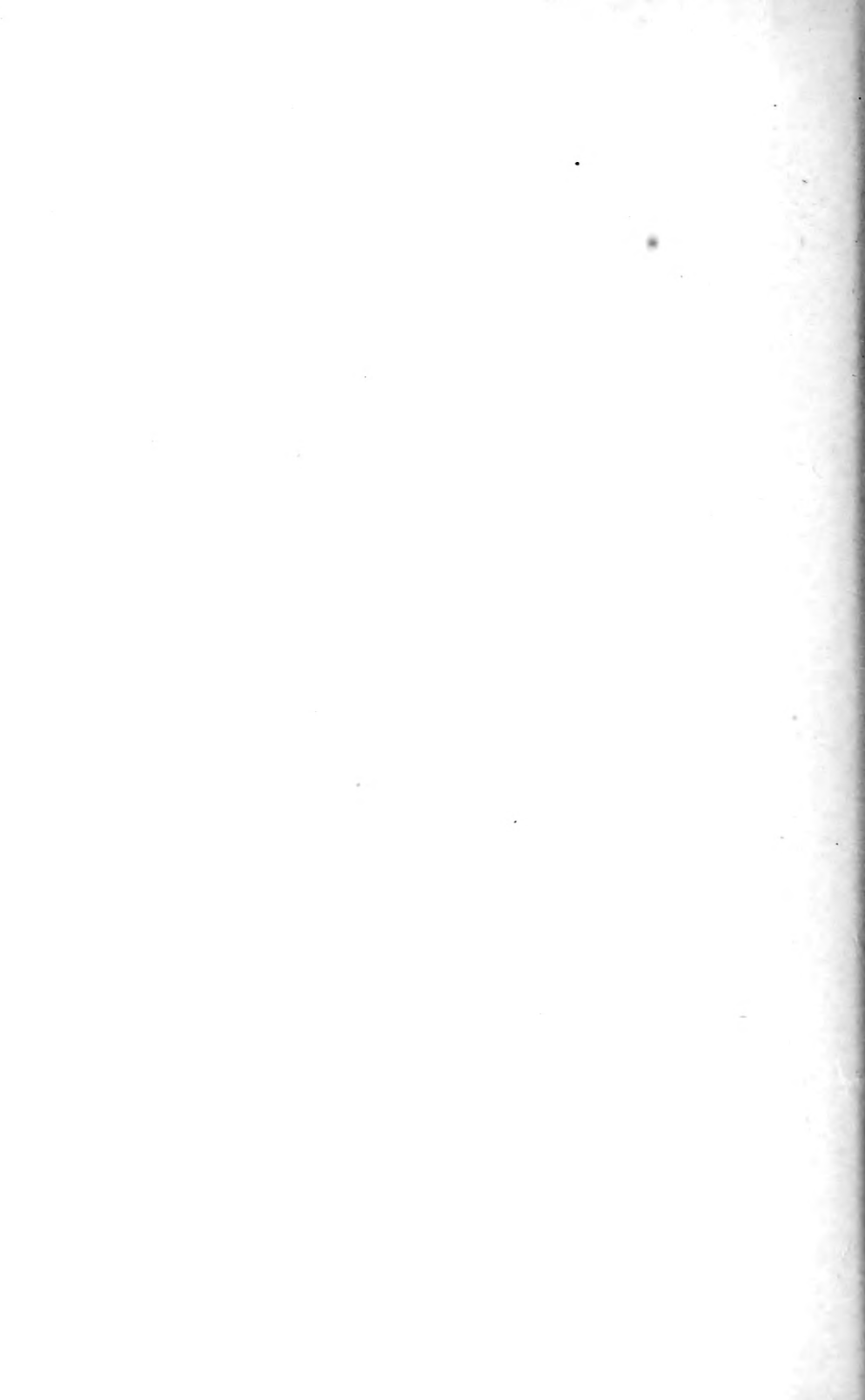
The book is very well written, popular in the best sense of the word, and appropriate to be put in the hands of the young. A companion volume on Hanukkah, *Moas Zur, ein Chanukkah-buch*, appeared in 1918.

The appearance of many more such publications of equal excellence would be most welcome. Such books can but contribute to the appreciation of our beautiful festivals, even among those estranged from the old Jewish customs.

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<sup>6</sup> *Chad Gadya, Das Pessachbuch*. Herausgegeben von HUGO HERRMANN. Berlin, JÜDISCHER VERLAG, 1914, pp. 224



## EDUCATIONAL LITERATURE.

"Education in Ancient Israel" by Fletcher Harper Swift<sup>1</sup> is a valuable contribution to the history of Jewish education. It is comprehensive, sympathetic with the point of view of the period with which it deals and is the first masterly attempt to make a scientific study of education in Ancient Israel.

Almost all of the histories of education either entirely omit the history of education in ancient Israel or make only brief mention of the subject. To give but one illustration, I refer to Monroe's "History of Education". This text which is widely used in teachers' training schools and in colleges, makes no mention of education in Ancient Israel, while it devotes 29 pages to Chinese education and 120 pages to Greek education.

The reason for this unpardonable neglect is due to the fact that information concerning this subject is meagre and incomplete. The present volume is the first attempt to give, in the English language, as broad a treatment to education in Ancient Israel as has long been accorded to that of other ancient peoples. The motive which impelled the writer to publish this volume is well expressed in the introduction.

"...so the Hebrews may be described as the people who vicariously created or evolved the major portion of our religious and moral heritage. One nation after another through the channel of Hebrew experience has approached the Hebrew God of righteousness and risen to spiritual conceptions before unknown to it... For nearly two thousand years conceptions, standards and ideals reborn in the teachings and life of Jesus of Nazareth but nevertheless originating in the spiritual experience of the ancient Hebrews, have inspired, rebuked, comforted and guided the nations of an ever extending Christendom.

What are the fundamental characteristics of Hebrew religion and morals, what part did education play in the development of the religious and moral consciousness of that race whose conceptions were destined to dominate the spiritual life of a thousand alien people and whose literary monuments have for centuries served as a primer and final text-

<sup>1</sup>*Education in Ancient Israel: from earliest times to 70 A.D.* By FLETCHER H. SWIFT. Chicago: OPEN COURT PUBLISHING COMPANY, 1919. p.XII+134.

book for Christendom? What were the institutions, who were the teachers, what were the methods through which the national consciousness and its heritage of doctrines and ideals were stimulated, fostered, preserved, and transmitted?"

The volume is divided into six chapters. The first chapter is devoted to a summary of the history of the Jewish people from the earliest times to the exile of Judah in 586 B.C.E. and to a brief survey of the most important events and movements connected with each event. The chapter forms the basis for the interpretation during this period of the educational development which is the subject matter of the second chapter.

In this chapter is contained a detailed account (1) of the earliest educational institutions—the tribe and the family; (2) of the methods whereby the youth, from childhood up, was prepared for the exigencies of life through physical, industrial, and military training; (3) of the evidence of informal training in the arts—music, dancing, story telling, and (4) of a more formal education in writing, number, and particularly in religious rites and practices.

There was no phase of life and no field of activity into which religion did not enter. Moral precepts, tales, legends and traditions setting forth the deeds and virtues of ancestors were the basis of moral training. The priests, the prophets, the Levites, and the scribes, while fulfilling their respective functions, acted as public teachers.

The third chapter gives a brief summary of the history of the Jewish People from 586 B.C.E. to 70 C.E. and to a survey of the most important events and movements during this period. This chapter forms the background to the discussion of the fourth and fifth chapters. The fourth chapter is devoted to a discussion of the family as the prime educational institution during the post-exilic period. The command in Deuteronomy "and thou shalt teach them diligently unto thy children," was taken literally. Father and mother acted as the child's first teachers of religion. Parents were held responsible for the education of their children, but also for their conduct. The various rites and ceremonies connected with each period in the child's life impressed every member of the family with the fact that the child belongs to God and that the parents were directly responsible to God for insuring to the child his religious education.

It is to be regretted that the author on several occasions based his data on secondary instead of original sources and fails to arrive,



in one case at least, at an accurate conclusion. The author presents the authority of the father as autocratic and quotes the text in Deuteronomy to support his claim. "This, our son, is stubborn and rebellious; he will not obey our voice; he is a riotous liver and a drunkard". The parents, according to the author, were the accusers and the prosecutors, the elders were the judges. If the parents' accusation is accepted by the elders of the city, "all the men of the city shall stone him with stones that he die". This demand is in the same category with the command "An eye for an eye and a tooth for a tooth". The literal interpretation in both cases was never followed. The Talmud records only one instance where the law was supposed to have been carried into effect. It was necessary for the "voice" of the father and mother to be exactly the same. This condition made the law a dead letter.

Chapter five is devoted to a discussion of education in the schools and in society after the exile. In it is discussed the synagogue which functioned not only as a house of prayer but as an assembly hall and as a school. Through the efforts of Simon ben Shataḥ (65 B.C.E.) schools for youths of 16 years and older were established. It was in the effort to make education complete and within the reach of every child, that Joshua ben Gamala (64 C.E.) established the ordinance making elementary education universal and compulsory. A comprehensive account of the system of elementary education for children from the ages of 6 or 7 years is given in this chapter.

The contents of the sixth chapter are brief: the synagogue and the Temple, aside from the home, were the only institutions to exert any educational influence on the girl or the woman of the day. The status and intellectual attainments of the woman in Israel are briefly presented.

The book contains a complete bibliography and a very fine index. The text is logically arranged and may easily be used as a valuable text-book in the history of Jewish education for the period which it covers.

In closing, I wish to call attention to an error due perhaps to a slight misconception of names and derivatives. The name of our great teacher was Ben Shataḥ, not Shetaḥ as is used in one instance.

Rabbi Kohn's<sup>2</sup> manual is of considerable value to teachers of biblical history, especially to those in orthodox and conservative religious schools.

<sup>2</sup> *A Manual for Teaching Biblical History*. By EUGENE KOHN. New York: THE UNITED SYNAGOGUE OF AMERICA, 1917, pp. 220.

While there are a number of volumes for teachers of biblical history written by Christian authors, or by those of reform tendencies, this volume is the first of its kind that I know of to present the subject from the point of view of the orthodox or the conservative Jew.

The introduction is replete with suggestions to teachers. In view of the fact that the large proportion of teachers of biblical history receive no special training in the methods of teaching biblical history, the introduction is indispensable. Even those who have taken courses in methods of teaching history in general, and of biblical history in particular, would be helped by a perusal of the introduction.

The utilization of Jewish symbols and ceremonies with which the child is familiar as a point of contact with many of the stories should prove invaluable.

The manual is divided into two parts. Part one covers the period "From the Creation to the Death of Moses", in 23 lessons, and part two covers the period of "Israel Under the Leadership of Moses" in 16 lessons. Each chapter is divided into three parts: (1) Interpretation; (2) Aim; (3) Suggestions to the Teachers. The first part, "Interpretation," contains a brief summary of the Scripture lesson of the story. The "interpretation" does not, however, eliminate the necessity on the part of the teacher of reading the Bible before presenting the story to the class. It does help the teacher to grasp the crucial meaning of the story of the lesson.

Under the second heading in each lesson, "Aim", is contained the religious, moral, and ethical teaching of each story.

Pedagogically it is wrong to lay any emphasis on the moral of a lesson. The teacher defeats her own purpose, but I presume that the author wishes to stress the underlying ethical lesson so that the teacher in telling the story should not fail to make clear in her presentation those points which give value to the story. In chapter seven of Part I, under "Suggestions to the Teachers", the author says: "It is very important in telling such stories the moral of which is to be enforced through the child's imitation of the virtues of the characters whose deeds it narrates, not to tag on a moral at the end of the tale. If the child is impressed by the story imitation is sure to result, and, by adding a moral stated in abstract terms, one only gives the child the feeling that the events of the story did not really happen, but were 'made up' to point the moral. But the child must be impressed by the story, and the skilful teacher will know how to make the details of the story itself so impressive as to bring home their moral."

The words of the author are applicable not only to lesson seven, but to all the lessons. The passage quoted should have been elaborated in the introduction and made applicable to all the lessons.

The greatest part of each chapter is devoted to "Suggestions to the Teacher". These suggestions are really very suggestive, and constitute the most valuable part of the volume. They are the outgrowth of an intensive study in methods of teaching biblical history, and of years of experience in teaching the subject as well as in directing similar work by other teachers. The Jewish teaching profession owes a debt of gratitude not only to the author, but also to the United Synagogue of America which has sponsored this publication. A companion volume covering the rest of biblical history should follow in order to complete the work which was so well begun.

New York.

JACOB B. GROSSMAN.

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